

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C) (OPR)
Sent: Thursday, April 06, 2017 11:21 AM
To: (b) (6), (b) (7)(C)
Cc:
Subject: RE: The Summons for Twitter account

Thank you both,

(b) (6), (b)
(7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 06, 2017 5:19:58 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

(b) (6),
(b) (7)

Wanted to give you an update... (b) (6), (b) (7) and I are communicating with OCC and other entities to resolve this issue.

Respectfully,

(b) (6), (b) (7)(C)

Assistant Special Agent in Charge
Investigative Operations Division
Office of Professional Responsibility
U.S. Customs and Border Protection

cell: (b) (6), (b) (7)(C)

email: (b) (6), (b) (7)(C)

(b) (7)(E)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 8:47 AM
To: (b) (6), (b) (7)(C)
Cc:
Subject: RE: The Summons for Twitter account

(b) (6), (b) (7)(C)

The case number is (b) (7)(E) the information in (b) (7)(E) is all that have to review. I (b) (6), (b) (7)(C) d get in contact with SSA (b) (6), (b) (7)(C) to get briefed on the all of the work they have done. It is my understanding that that (b) (7)(E) (b) (6), (b) (7)(C) If I recall the last conversation with (b) (6), (b) (7)(C) correctly. It appears that he account holder was asking for information to release at one point in time.

(b) (6), (b) (7)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 6:18 AM
To: (b) (6), (b) (7)(C)) (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

Can I have the (b) (7)(E) case #?

From: (b) (6), (b) (7)(E)
Sent: Tuesday, April 04, 2017 11:14:46 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: FW: The Summons for Twitter account

Please see the below email. I was just informed that twitter is challenging the summons in court unless we withdraw it in the next 48hrs.

Please advice

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Tuesday, April 04, 2017 11:10:29 PM
To: (b) (6), (b) (7)(C)
Subject: FW: The Summons for Twitter account

Agent (b) (6), (b) (7)(C)

We are now representing Twitter in connection with the Section 1509 summons concerning the @alt_uscis account. Please direct any further communications on this matter to my attention.

As (b) (6), (b) (7)(C) has indicated, Twitter has significant concerns regarding the summons, and Twitter intends to file a challenge to the summons in court unless it is withdrawn within 48 hours of (b) (6), (b) (7)(C) email to you earlier today.

The language of 19 U.S.C. § 1509 indicates that a summons such as this may be used to compel the production of records only when the agency is engaged in an investigation relating to compliance with laws concerning imported merchandise. In addition, the types of records whose production may be compelled by such a summons are narrowly defined in §§ 1508 and 1509—again, as limited to records relating to imported merchandise. You have not provided Twitter with any basis to conclude that either the purpose of the summons, or the type of the records it demands Twitter to produce, fall within these statutory parameters.

In addition, Twitter is concerned that the summons infringes the First Amendment rights of its users to speak pseudonymously on the Twitter platform and Twitter's own First Amendment rights to host such speech. Because enforcement of the summons would impact one or more Twitter users who have been using Twitter's service to engage in criticism of the government without disclosing their real identities, the First Amendment interests at stake here are heightened. Twitter believes that, under the First Amendment, there should be no enforcement of the summons absent

an evidentiary showing by CBP that that some criminal or civil offense has been committed, that unmasking the users' identity is the least restrictive means for investigating that offense, that the agency's demand for this information is not motivated by a desire to suppress free speech, and that the interests of pursuing that investigation outweigh the important free speech rights of Twitter and its users. Your communications to Twitter have not indicated that such a showing can be made in these circumstances.

Regards,

(b) (6), (b) (7)(C)

Washington, DC 20006 USA

(b) (6), (b) (7)(C)(t)
(f)

(b) (6), (b) (7)(C)

----- Forwarded message -----

From: (b) (7)(C), (b) (6)

(b) (6), (b) (7)(C)

Date: Tue, Apr 4, 2017 at 11:45 AM

Subject: RE: The Summons for Twitter account

To: (b) (6), (b) (7)(C)

>

(b) (6), (b) (7)(C)

Per our phone conversation, CBP had no intention of acquiring a non-disclosure and that we did not have an issue if twitter notified the account holder. I also understand that your question of legal attority was cleared up and that you understood that it was within the scope.

That is because if a person or group is using Twitter to release controlled information or message ways around laws that CBP is responsible to enforce it would fall under that summons.

Are you now saying that you do not feel that the summons is not valid?

(b) (7)(C), (b) (6)

From: (b) (6), (b) (7)(C)

Sent: Tuesday, April 04, 2017 7:12:31 PM

To: (b) (6), (b) (7)(C)

Subject: Re: The Summons for Twitter account

Agent (b) (6), (b) (7)

Please be advised that consistent with my last email, we provided notice to the user of the @alt_uscis account of your request for account information. Due to unresolved concerns regarding the legality of the summons, we have also

notified the user that it is our intent to file a challenge in the next 48 hours unless the summons is withdrawn. Please notify Twitter as soon as possible in writing if you would like to withdraw the summons.

Best regards,
(b) (6), (b) (7)(C)

On Sun, Apr 2, 2017 at 11:14 AM, (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

com>>>> wrote:

(b) (6), (b) (7)(C)

Thanks for your email. Just to clarify, as I explained to you on the phone, Twitter has a policy of providing notice to our users of requests for their account information. We do not provide notice if we receive a valid non-disclosure order issued under 18 U.S.C. 2705(b). As I understand your message, you are confirming for me that CPB does not plan to obtain such an order. As such, we will proceed with notice on Monday. We do not view user notice as having any bearing any objections to the summons that the user or Twitter may have.

Best regards,
(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C), (b) (7)(E)

On Fri, Mar 31, 2017 at 8:45 AM, (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

wrote:

(b) (6), (b) (7)(C)

Per our phone conversation, I wanted to advice you that as long as CBP gets the requested information from twitter, I'm ok with twitter notifying the account holder. If you would like you can email the requested information to me as well.

Thank you again for all the help,

(b) (6), (b) (7)(C)

Special Agent | OFFICE OF PROFESSIONAL RESPONSIBILITY | DEPARTMENT OF HOMELAND SECURITY | U.S. CUSTOMS AND BORDER PROTECTION

Office (b) (6), (b) (7)(C)

Cellular (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) | Electronic Mail

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (7)(E)

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(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

Associate General Counsel - Global Law Enforcement

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C) (OPR)
Sent: Wednesday, April 05, 2017 4:21 AM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

Good morning

Can I see a copy of the document?

From: (b) (6), (b) (7)(C)
Sent: Tuesday, April 04, 2017 11:14:46 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: FW: The Summons for Twitter account

(b) (6), (b) (7)(C)

Please see the below email. I was just informed that twitter is challenging the summons in court unless we withdraw it in the next 48hrs.

Please advice

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Tuesday, April 04, 2017 11:10:29 PM
To: (b) (6), (b) (7)(C)
Subject: FW: The Summons for Twitter account

Agent (b) (6), (b) (7)(C)

We are now representing Twitter in connection with the Section 1509 summons concerning the @alt_uscis account. Please direct any further communications on this matter to my attention.

As (b) (6), (b) (7)(C) has indicated, Twitter has significant concerns regarding the summons, and Twitter intends to file a challenge to the summons in court unless it is withdrawn within 48 hours of (b) (6), (b) (7)(C) email to you earlier today.

The language of 19 U.S.C. § 1509 indicates that a summons such as this may be used to compel the production of records only when the agency is engaged in an investigation relating to compliance with laws concerning imported merchandise. In addition, the types of records whose production may be compelled by such a summons are narrowly defined in §§ 1508 and 1509—again, as limited to records relating to imported merchandise. You have not provided Twitter with any basis to conclude that either the purpose of the summons, or the type of the records it demands Twitter to produce, fall within these statutory parameters.

In addition, Twitter is concerned that the summons infringes the First Amendment rights of its users to speak pseudonymously on the Twitter platform and Twitter's own First Amendment rights to host such speech. Because enforcement of the summons would impact one or more Twitter users who have been using Twitter's service to engage in criticism of the government without disclosing their real identities, the First Amendment interests at stake here are heightened. Twitter believes that, under the First Amendment, there should be no enforcement of the summons absent an evidentiary showing by CBP that that some criminal or civil offense has been committed, that unmasking the users' identity is the least restrictive means for investigating that offense, that the agency's demand for this information is not motivated by a desire to suppress free speech, and that the interests of pursuing that investigation outweigh the

important free speech rights of Twitter and its users. Your communications to Twitter have not indicated that such a showing can be made in these circumstances.

Regards,

(b) (6), (b) (7)(C) WilmerHale

(b) (6), (b) (7)(C)

Washington, DC 20006 USA

(b) (6), (b) (7)(C)(t)

(f)

(b) (6), (b) (7)(C)

----- Forwarded message -----

From: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Date: Tue, Apr 4, 2017 at 11:45 AM

Subject: RE: The Summons for Twitter account

To: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Per our phone conversation, CBP had no intention of acquiring a non-disclosure and that we did not have an issue if twitter notified the account holder. I also understand that your question of legal attorney was cleared up and that you understood that it was within the scope.

That is because if a person or group is using Twitter to release controlled information or message ways around laws that CBP is responsible to enforce it would fall under that summons.

Are you now saying that you do not feel that the summons is not valid?

(b)
(6)

From: (b) (6), (b) (7)(C)

Sent: Tuesday, April 04, 2017 7:12:31 PM

To: (b) (6), (b) (7)(C)

Subject: Re: The Summons for Twitter account

Agent (b) (6), (b) (7)
(C)

Please be advised that consistent with my last email, we provided notice to the user of the @alt_uscis account of your request for account information. Due to unresolved concerns regarding the legality of the summons, we have also notified the user that it is our intent to file a challenge in the next 48 hours unless the summons is withdrawn. Please notify Twitter as soon as possible in writing if you would like to withdraw the summons.

Best regards,

(b) (6), (b) (7)(C)

On Sun, Apr 2, 2017 at 11:14 AM, (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Agent (b) (6), (b) (7)
(C)

Thanks for your email. Just to clarify, as I explained to you on the phone, Twitter has a policy of providing notice to our users of requests for their account information. We do not provide notice if we receive a valid non-disclosure order issued under 18 U.S.C. 2705(b). As I understand your message, you are confirming for me that CPB does not plan to obtain such an order. As such, we will proceed with notice on Monday. We do not view user notice as having any bearing any objections to the summons that the user or Twitter may have.

Best regards,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C), (b) (7)(E)

On Fri, Mar 31, 2017 at 8:45 AM, (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

wrote:

(b) (6), (b) (7)(C)

Per our phone conversation, I wanted to advise you that as long as CBP gets the requested information from twitter, I'm ok with twitter notifying the account holder. If you would like you can email the requested information to me as well.

Thank you again for all the help,

(b) (6), (b) (7)(C)

Special Agent | OFFICE OF PROFESSIONAL RESPONSIBILITY | DEPARTMENT OF HOMELAND SECURITY | U.S. CUSTOMS AND BORDER PROTECTION

Office (b) (6), (b) (7)(C)

Cellular (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) Electronic

Mail (b) (6), (b) (7)(C)

(b) (7)(E)

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(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 11:26 AM
To: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

Thank you sir.

From: COUREY, MARC BENNETT (OCC)
Sent: Wednesday, April 05, 2017 5:24:55 PM
To: LUKENS, TINA (OPR)
Cc: (b) (6), (b) (7)(C); FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

Looping in (b) (6), (b) (7)(C) to assist. Thanks.

Bennett Courey
CBP Associate Chief Counsel (Enforcement and Operations)
T (b) (6), (b) (7)(C) / C: (b) (6), (b) (7)(C); (b) (6), (b) (7)(C)
** Attorney Work Product / Attorney-Client Privileged **

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 5, 2017 11:10 AM
To: COUREY, MARC BENNETT (OCC); (b) (6), (b) (7)(C)
FUNN, ERICK K (OPR)
(b) (6), (b) (7)(C)
Subject: FW: The Summons for Twitter account
Importance: High

Good morning Sir,

(b) (5), (b) (6), (b) (7)(C)

Thank you

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 2:56:57 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C); (b) (6), (b) (7)(C); (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C); FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)
Subject: FW: The Summons for Twitter account

Good morning (b) (6), (b) (7)(C)

(b) (5)

(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

Associate General Counsel - Global Law Enforcement

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 6:47 AM
To: (b) (6), (b) (7)(C)
Subject: FW: The Summons for Twitter account

Respectfully,

(b) (6), (b) (7)(C)

*Assistant Special Agent in Charge
Investigative Operations Division
Office of Professional Responsibility
U.S. Customs and Border Protection*

cell: (b) (6), (b) (7)(C)

email: (b) (6), (b) (7)(C)



From (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 6:09 AM
To: (b) (6), (b) (7)(C); FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

(b) (6), (b) (7)(C)

Agreed. Please engage OCC this morning.

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 4:40:01 AM
To: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)
Subject: FW: The Summons for Twitter account

Fysa
We may need to engage OCC.

From: (b) (6), (b) (7)(C)
Sent: Tuesday, April 04, 2017 11:14:46 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: FW: The Summons for Twitter account

(b) (6), (b) (7)(C)

Please see the below email. I was just informed that twitter is challenging the summons in court unless we withdraw it in the next 48hrs.

Please advice

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Tuesday, April 04, 2017 11:10:29 PM
To: (b) (6), (b) (7)(C)
Sub ter account

Agent (b) (6), (b) (7)(C)

We are now representing Twitter in connection with the Section 1509 summons concerning the @alt_uscis account. Please direct any further communications on this matter to my attention.

As (b) (6), (b) (7)(C) has indicated, Twitter has significant concerns regarding the summons, and Twitter intends to file a challenge to the summons in court unless it is withdrawn within 48 hours of (b) (6), (b) (7)(C) email to you earlier today.

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Regards,

(b) (6), (b) (7)(C) WilmerHale
(b) (6), (b) (7)(C)
Washington, DC 20006 USA
(b) (6), (b) (7)(C)(t)
(f)

(b) (6), (b) (7)(C)

----- Forwarded message -----

From: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
Date: 1

Subject: RE: The Summons for Twitter account

To (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

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Are you now saying that you do not feel that the summons is not valid?

(b) (6), (b) (7)(C)

From (b) (6), (b) (7)(C)

Sent: Tuesday, April 04, 2017 7:12:31 PM

To: (b) (6), (b) (7)(C)

Subject: Re: The Summons for Twitter account

Agent (b) (6), (b) (7)(C)

Please be advised that consistent with my last email, we provided notice to the user of the @alt_uscis account of your request for account information. Due to unresolved concerns regarding the legality of the summons, we have also notified the user that it is our intent to file a challenge in the next 48 hours unless the summons is withdrawn. Please notify Twitter as soon as possible in writing if you would like to withdraw the summons.

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(b) (6), (b) (7)(C)

On Sun, Apr 2, 2017 at 11:14 AM, (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

> wrote:

Agent (b) (7)(C),
(b) (6)

Thanks for your email. Just to clarify, as I explained to you on the phone, Twitter has a policy of providing notice to our users of requests for their account information. We do not provide notice if we receive a valid non-disclosure order issued under 18 U.S.C. 2705(b). As I understand your message, you are confirming for me that CPB does not plan to obtain such an order. As such, we will proceed with notice on Monday. We do not view user notice as having any bearing any objections to the summons that the user or Twitter may have.

Best regards,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C), (b) (7)(E)

On Fri, Mar 31, 2017 at 8:4 (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

wrote:

(b) (6), (b) (7)(C)

Per our phone conversation, I wanted to advise you that as long as CBP gets the requested information from twitter, I'm ok with twitter notifying the account holder. If you would like you can email the requested information to me as well.

Thank you again for all the help,

(b) (7)(C), (b) (6)

Special Agent | OFFICE OF PROFESSIONAL RESPONSIBILITY | DEPARTMENT OF HOMELAND SECURITY | U.S. CUSTOMS AND BORDER PROTECTION

Office (b) (6), (b) (7)(C)

Cellular (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) Electronic

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(b) (7)(E)

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--

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(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

Associate General Counsel - Global Law Enforcement

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 5:18 AM
To: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

Yes. Ma'am. Copy.

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 11:08:56 AM
To: (b) (6), (b) (7)(C); FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

(b) (6), (b) (7)(C)

Agreed. Please engage OCC this morning.

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 4:40:01 AM
To: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)
Subject: FW: The Summons for Twitter account

Fysa
We may need to engage OCC.

From: (b) (6), (b) (7)(C)
Sent: 14:46 PM
To: (b) (6), (b) (7)(C)
Cc:
Subject: FW: The Summons for Twitter account

(b) (6), (b) (7)(C)

Please see the below email. I was just informed that twitter is challenging the summons in court unless we withdraw it in the next 48hrs.

Please advice

(b) (6),
(b) (7)

From: (b) (6), (b) (7)(C)
Sent: Tuesday, April 04, 2017 11:10:29 PM
To: (b) (6), (b) (7)(C)
Subject: FW: The Summons for Twitter account

Agent (b) (6), (b) (7)(C)

We are now representing Twitter in connection with the Section 1509 summons concerning the @alt_uscis account. Please direct any further communications on this matter to my attention.

As (b) (6), (b) (7)(C) has indicated, Twitter has significant concerns regarding the summons, and Twitter intends to file a challenge to the summons in court unless it is withdrawn within 48 hours of (b) (6), (b) (7)(C) email to you earlier today.

The language of 19 U.S.C. § 1509 indicates that a summons such as this may be used to compel the production of records only when the agency is engaged in an investigation relating to compliance with laws concerning imported merchandise. In addition, the types of records whose production may be compelled by such a summons are narrowly defined in §§ 1508 and 1509—again, as limited to records relating to imported merchandise. You have not provided Twitter with any basis to conclude that either the purpose of the summons, or the type of the records it demands Twitter to produce, fall within these statutory parameters.

In addition, Twitter is concerned that the summons infringes the First Amendment rights of its users to speak pseudonymously on the Twitter platform and Twitter's own First Amendment rights to host such speech. Because enforcement of the summons would impact one or more Twitter users who have been using Twitter's service to engage in criticism of the government without disclosing their real identities, the First Amendment interests at stake here are heightened. Twitter believes that, under the First Amendment, there should be no enforcement of the summons absent an evidentiary showing by CBP that that some criminal or civil offense has been committed, that unmasking the users' identity is the least restrictive means for investigating that offense, that the agency's demand for this information is not motivated by a desire to suppress free speech, and that the interests of pursuing that investigation outweigh the important free speech rights of Twitter and its users. Your communications to Twitter have not indicated that such a showing can be made in these circumstances.

Regards,

(b) (6), (b) (7)(C) WilmerHale

(b) (6), (b) (7)(C)

Washington, DC 20006 USA

(b) (6), (b) (7)(C)(t)
(f)

(b) (6), (b) (7)(C)

----- Forwarded message -----

From: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Date: Tue, Apr 4, 2017 at 11:45 AM

Subject: RE: The Summons for Twitter account

To: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Per our phone conversation, CBP had no intention of acquiring a non-disclosure and that we did not have an issue if twitter notified the account holder. I also understand that your question of legal attority was cleared up and that you understood that it was within the scope.

That is because if a person or group is using Twitter to release controlled information or message ways around laws that CBP is responsible to enforce it would fall under that summons.

Are you now saying that you do not feel that the summons is not valid?

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Tuesday, April 04, 2017 7:12:31 PM

To: (b) (6), (b) (7)(C)

Subject: Re: The Summons for Twitter account

Agent (b) (6), (b) (7)(C)

Please be advised that consistent with my last email, we provided notice to the user of the @alt_uscis account of your request for

account information. Due to unresolved concerns regarding the legality of the summons, we have also notified the user that it is our intent to file a challenge in the next 48 hours unless the summons is withdrawn. Please notify Twitter as soon as possible in writing if you would like to withdraw the summons.

Best regards,

(b) (6), (b) (7)(C)

On Sun, Apr 2, 2017 at 11:14 AM, (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

wrote:

Agent (b) (6), (b) (7)(C)

Thanks for your email. Just to clarify, as I explained to you on the phone, Twitter has a policy of providing notice to our users of requests for their account information. We do not provide notice if we receive a valid non-disclosure order issued under 18 U.S.C. 2705(b). As I understand your message, you are confirming for me that CPB does not plan to obtain such an order. As such, we will proceed with notice on Monday. We do not view user notice as having any bearing any objections to the summons that the user or Twitter may have.

Best regards,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C), (b) (7)(E)

On Fri, Mar 31, 2017 at 8:45, (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

wrote:

(b) (6), (b) (7)(C)

Per our phone conversation, I wanted to advise you that as long as CBP gets the requested information from twitter, I'm ok with twitter notifying the account holder. If you would like you can email the requested information to me as well.

Thank you again for all the help,

(b) (6), (b) (7)(C)

Special Agent | OFFICE OF PROFESSIONAL RESPONSIBILITY | DEPARTMENT OF HOMELAND SECURITY | U.S. CUSTOMS AND BORDER PROTECTION

Office (b) (6), (b) (7)(C)

Cellular

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) Electronic

(b) (6), (b) (7)(C)

(b) (7)(E)

WARNING: THIS MESSAGE MAY CONTAIN INFORMATION WHICH IS SENSITIVE, CONFIDENTIAL, OR EXEMPT FROM DISCLOSURE. PLEASE DELIVER THIS DOCUMENT IMMEDIATELY TO THE INTENDED RECIPIENT LISTED ABOVE. THE DEPARTMENT OF HOMELAND SECURITY, U.S. CUSTOMS AND BORDER PROTECTION, HAS NOT APPROVED THE REVIEW, USE, DUPLICATION, DISSEMINATION, OR RETRANSMISSION OF THIS DOCUMENT BY ANYONE, OTHER THAN THE INTENDED RECIPIENT, AND IS THEREFORE PROHIBITED.

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(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

Associate General Counsel - Global Law Enforcement

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 3:41 PM
To: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

Hi (b) (6), (b) (7)(C) That should be fine, barring any issues with the trains in the morning. If I do run into trouble, I will let you know.

Thank you,

(b) (6), (b) (7)(C)

Attorney
Ethics, Labor and Employment
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

Washington, DC 20229

Phone: (b) (6), (b) (7)(C)

Fax: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Privileged and Confidential

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 9:37:59 PM
To: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

Hi (b) (6), (b) (7)(C) How about 0800 tomorrow? Thank you for your assistance.

Respectfully,

(b) (6), (b) (7)(C)

*Assistant Special Agent in Charge
Investigative Operations Division
Office of Professional Responsibility
U.S. Customs and Border Protection*

cell (b) (6), (b) (7)(C)

email: (b) (6), (b) (7)(C)



From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 4:32 PM
To: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

Hi (b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

Thank you,

(b) (6), (b) (7)(C)

Attorney
Ethics, Labor and Employment
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

Washington, DC 20229

Phone: (b) (6), (b) (7)(C)

Fax: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Privileged and Confidential

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 6:38:20 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C); FUNN, ERICK K (OPR); (b) (6), (b) (7)(C); (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

(b) (6), (b) (7)(C)

Thanks for your efforts. (b) (5), (b) (6), (b) (7)(C)

Respectfully,

(b) (6), (b) (7)(C)

Assistant Special Agent in Charge
Investigative Operations Division
Office of Professional Responsibility
U.S. Customs and Border Protection

cell: (b) (6), (b) (7)(C)

email: (b) (6), (b) (7)(C)

-----Original Message-----

From: (b) (6), (b) (7)(C)

Sent: Wednesday, April 05, 2017 1:28 PM

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

FUNN,

ERICK K (OPR) (b) (6), (b) (7)(C)

Subject: FW: The Summons for Twitter account
Importance: High

Hi (b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

Thanks so much.

VR,

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel
Ethics, Labor and Employment
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

Washington, D.C. 20229

(b) (6), (b) (7)(C)

This communication may contain information that is confidential and/or subject to the attorney-client, attorney work product and/or deliberative process privileges. This communication may also contain confidential information, and is not for release, review, retransmission, dissemination or use by anyone other than the intended recipient. Please notify the sender if this email has been misdirected and immediately destroy all originals and copies of the original. Any disclosure of this communication must be approved by the Office of Chief Counsel, U.S. Customs and Border Protection.

-----Original Message-----

From: (b) (6), (b) (7)(C)

Sent: Wednesday, April 05, 2017 9:57 AM

To: (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

FUNN.

ERICK K (OPR) (b) (6), (b) (7)(C)

Subject: FW: The Summons for Twitter account

Importance: High

Good morning (b) (6), (b) (7)(C)

(b) (5)

At your convenience, could we discuss this issue? Thank you.

Respectfully,

(b) (6), (b) (7)(C)

Agent in Charge

Investigative Operations Division

Office of Professional Responsibility

U.S. Customs and Border Protection

cell: (b) (6), (b) (7)(C)

email: (b) (6), (b) (7)(C)

-----Original Message-----

From: (b) (6), (b) (7)(C)

Sent: T

To: (b) (6), (b) (7)(C)

Cc:

Subject: FW: The Summons for Twitter account

(b) (6), (b) (7)(C)

Please see the below email. I was just informed that twitter is challenging the summons in court unless we withdraw it in the next 48hrs.

Please advice

(b) (7)(C),
(b) (6)

From: (b) (6), (b) (7)(C)

Sent: Tuesday, April 04, 2017 11:10:29 PM

To: (b) (6), (b) (7)(C)

Subject: FW: The Summons for Twitter account

Agent (b) (6), (b) (7)(C)

We are now representing Twitter in connection with the Section 1509 summons concerning the @alt_uscis account. Please direct any further communications on this matter to my attention.

As (b) (6), (b) (7)(C) has indicated, Twitter has significant concerns regarding the summons, and Twitter intends to file a challenge to the summons in court unless it is withdrawn within 48 hours of (b) (6), (b) (7)(C) email to you earlier today.

The language of 19 U.S.C. § 1509 indicates that a summons such as this may be used to compel the production of records only when the agency is engaged in an investigation relating to compliance with laws concerning imported merchandise. In addition, the types of records whose production may be compelled by such a summons are narrowly defined in §§ 1508 and 1509—again, as limited to records relating to imported merchandise. You have not provided Twitter with any basis to conclude that either the purpose of the summons, or the type of the records it demands Twitter to produce, fall within these statutory parameters.

In addition, Twitter is concerned that the summons infringes the First Amendment rights of its users to speak pseudonymously on the Twitter platform and Twitter's own First Amendment rights to host such speech. Because enforcement of the summons would impact one or more Twitter users who have been using Twitter's service to engage in criticism of the government without disclosing their real identities, the First Amendment interests at stake here are heightened. Twitter believes that, under the First Amendment, there should be no enforcement of the summons absent an evidentiary showing by CBP that that some criminal or civil offense has been committed, that unmasking the users' identity is the least restrictive means for investigating that offense, that the agency's demand for this information is not motivated by a desire to suppress free speech, and that the interests of pursuing that investigation outweigh the important free speech rights of Twitter and its users. Your communications to Twitter have not indicated that such a showing can be made in these circumstances.

Regards,

(b) (6), (b) (7)(C) WilmerHale

(b) (6), (b) (7)(C)

Washington, DC 20006 USA

(b) (6), (b) (7)(C)
(t)
(f)

(b) (6), (b) (7)(C)

----- Forwarded message -----

From: (b) (7)(C), (b) (6)

(b) (6), (b) (7)(C)

Date: Tue, Apr 4, 2017 at 11:45 AM

Subject: RE: The Summons for Twitter account

To: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Per our phone conversation, CBP had no intention of acquiring a non-disclosure and that we did not have an issue if twitter notified the account holder. I also understand that your question of legal attority was cleared up and that you understood that it was within the scope.

That is because if a person or group is using Twitter to release controlled information or message ways around laws that CBP is responsible to enforce it would fall under that summons.

Are you now saying that you do not feel that the summons is not valid?

(b) (6), (b) (7)
(C)

From: (b) (6), (b) (7)(C)

Sent: Tuesday, April 04, 2017 7:12:31 PM

To: (b) (6), (b) (7)(C)

Subject: Re: The Summons for Twitter account

Agent (b) (7)(C), (b)
(C)

Please be advised that consistent with my last email, we provided notice to the user of the @alt_uscis account of your request for

account information. Due to unresolved concerns regarding the legality of the summons, we have also notified the user that it is our intent to file a challenge in the next 48 hours unless the summons is withdrawn. Please notify Twitter as soon as possible in writing if you would like to withdraw the summons.

Best regards,

(b) (6), (b) (7)(C)

On Sun, Apr 2, 2017 at 11:14 AM, (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

wrote:

Agent (b) (6), (b) (7)(C)

Thanks for your email. Just to clarify, as I explained to you on the phone, Twitter has a policy of providing notice to our users of requests for their account information. We do not provide notice if we receive a valid non-disclosure order issued under 18 U.S.C. 2705(b). As I understand your message, you are confirming for me that CPB does not plan to obtain such an order. As such, we will proceed with notice on Monday. We do not view user notice as having any bearing any objections to the summons that the user or Twitter may have.

Best regards,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C), (b) (7)(E)

On Fri, Mar 31, 2017 at 8:45 AM, (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

wrote:

(b) (6), (b) (7)(C)

Per our phone conversation, I wanted to advise you that as long as CBP gets the requested information from twitter, I'm ok with twitter notifying the account holder. If you would like you can email the requested information to me as well.

Thank you again for all the help,

(b) (6), (b) (7)(C)

E OF PROFESSIONAL RESPONSIBILITY | DEPARTMENT OF HOMELAND SECURITY | U.S.

CUSTOMS AND BORDER PROTECTION

Office (b) (6), (b) (7)(C)

Cellular

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) | Electronic

Mail (b) (6), (b) (7)(C)

(b) (7)(E)

WARNING: THIS MESSAGE MAY CONTAIN INFORMATION WHICH IS SENSITIVE, CONFIDENTIAL, OR EXEMPT FROM DISCLOSURE. PLEASE DELIVER THIS DOCUMENT IMMEDIATELY TO THE INTENDED RECIPIENT LISTED ABOVE. THE DEPARTMENT OF HOMELAND SECURITY, U.S. CUSTOMS AND BORDER PROTECTION, HAS NOT APPROVED THE REVIEW, USE, DUPLICATION, DISSEMINATION, OR RETRANSMISSION OF THIS DOCUMENT BY ANYONE, OTHER THAN THE INTENDED RECIPIENT, AND IS THEREFORE PROHIBITED.

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(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

Associate General Counsel - Global Law Enforcement

(b) (6), (b) (7)(C) CA, 94103

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 10:10 AM
To: COUREY, MARC BENNETT (OCC)
Cc: (b) (6), (b) (7)(C); FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)
Subject: FW: The Summons for Twitter account
Attachments: Faxed summons (b) (7)(E).pdf
Importance: High

Good morning Sir,

OPR (b) (6), (b) (7)(C) suggested I forward this request to you for visibility and guidance.

Thank you

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 2:56:57 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C); (b) (7)(C), (b) (6); (b) (6), (b) (7)(C); (b) (6), (b) (7)(C); FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)
Subject: FW: The Summons for Twitter account

Good morning (b) (6), (b) (7)(C)

(b) (5)

At your convenience, could we discuss this issue? Thank you.

Respectfully,

(b) (6), (b) (7)(C)

Assistant Special Agent in Charge
Investigative Operations Division
Office of Professional Responsibility
U.S. Customs and Border Protection

cell: (b) (6), (b) (7)(C)

email: (b) (6), (b) (7)(C)

-----Original Message-----

From: (b) (6), (b) (7)(C) F (OPR)



U.S. DEPARTMENT OF HOMELAND SECURITY
Bureau of Customs and Border Protection

FACSIMILE TRANSMITTAL

CD 2110-035

Date:

Control Number:

TO	Name:	<i>Trust & Safety - Legal Policy</i>
	Organization:	<i>Twitter Inc</i>
	Fax Number:	<i>1-415-222-9958</i>
	Number of Pages (including cover):	<i>4</i>
FROM	Sender:	<i>SA Adam Hoffman</i>
	Originating Location:	<i>DHS Customs and Border Protection</i>
	Return FAX Number:	<i>1-202-344-1258</i>
	Voice Number:	<i>1-202-344-3194</i>
REMARKS	<i>Please complete the Acknowledgment of Receipt and return to Fax # 1-202-344-1258</i>	

Important: This document may contain confidential and sensitive U.S. Government information. Please deliver it immediately only to the intended recipient(s) listed above. The Bureau of Customs and Border Protection has not approved the documents review, retransmission, dissemination or use by anyone other than the intended recipient(s).

To (Name, Address, City, State, Zip Code)

Twitter, Inc.
c/o Trust & Safety - Legal Policy
1355 Market Street, Suite 900
San Francisco, CA 94103

DEPARTMENT OF HOMELAND SECURITY

SUMMONS NOTICE

to Appear and/or Produce Records
19 U.S.C. § 1509

Attached is a copy of a summons served by U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP), both agencies within the Department of Homeland Security (DHS), to examine records or to request testimony relating to records of your business transactions or affairs which have been made or kept by the person named in Block 1 of the summons.

If you object to the examination of these records, you may stay (prevent) examination of the records until a summons enforcement proceeding is commenced in court. Compliance with the summons will be stayed if, not later than the day before the date indicated in Block 2 of the summons, you advise the person summoned (the person named in Block 1), in writing, not to comply with the summons, and you send a copy of that notice by registered or certified mail to the CBP Officer or ICE Special Agent who issued the summons at the address shown in Block 6 of the summons.

CBP or ICE may begin an action to enforce the summons in the appropriate United States District Court. In such cases, you will be notified and you will have the right to intervene and present your objections before the court. The court will decide whether the person summoned should be required to comply with the summons.

If the court issues an order to comply with the summons and the person summoned fails to comply, the court may punish such failure as a contempt of court. Other sanctions may be provided by law.

If you have any questions regarding this matter, please contact the CBP Officer or ICE Special Agent before whom the summoned person is required to appear. The CBP Officer's or ICE Special Agent's name and telephone number are given in Block 2 of the summons.

1. To (Name, Address, City, State, Zip Code) Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	DEPARTMENT OF HOMELAND SECURITY SUMMONS to Appear and/or Produce Records 19 U.S.C. § 1509
Summons Number 2017012	Case Number: 201704511

By the service of this subpoena upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

- (A) ☐ **APPEAR** before the U.S. Customs and Border Protection (CBP) Officer or U.S. Immigration and Customs Enforcement (ICE) Special Agent named in Block 2 at the place, date, and time indicated to testify and give information.
- (B) ☒ **PRODUCE** the records (including statements, declarations, and other documents) indicated in Block 3 before the CBP Officer or ICE Special Agent named in Block 2 at the place, date, and time indicated.


Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry to ascertain the correctness of entries, to determine the liability for duties, taxes, fines, penalties, or forfeitures, and/or to ensure compliance with the laws or regulations administered by CBP and ICE.

Failure to comply with this summons will render you liable to proceedings in a U.S. District Court to enforce compliance with this summons as well as other sanctions.

2. (A) CBP Officer or ICE Special Agent before whom you are required to appear Name Adam Hoffman Title Special Agent Address 1300 Pennsylvania Ave. N.W. Room 8.3 Washington D.C. 20229 Telephone Number 1-202-344-3194	(B) Date 03/13/2017 (C) Time 11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
3. Records required to be produced for inspection All records regarding the twitter account @ALT_USCIS to include, User names, account login, phone numbers, mailing addresses, and I.P addresses.	


You are requested not to disclose the existence of this summons for an indefinite period of time. Any such disclosure will impede this investigation and thereby interfere with the enforcement of federal law.

Issued under authority of section 509, Tariff Act of 1930, as amended by Public law 95-410 (19 U.S.C. § 1509); 44 F.R. 2217; Homeland Security Act of 2002

4. Name of person authorized to serve this summons or any other CBP Officer or ICE Special Agent Special Agent Adam Hoffman	5. Date of issue 03/14/2017 By <u>Stephen P. Caruso</u> (Signature)
	6. Name, title, address, and telephone number of person issuing this summons Name Stephen P. Caruso Title Special Agent in Charge Address 11606 City Hall Promenade Suite 400, Miramar, FL 33025 Telephone Number (954) 843-5068

If you have any questions regarding this summons, contact the CBP Officer or ICE Special Agent identified in Block 2.

CERTIFICATE OF SERVICE AND ACKNOWLEDGMENT OF RECEIPT

A. CERTIFICATE OF SERVICE OF SUMMONS		
I certify that I served the summons on the front of this form as follows:		
<input type="checkbox"/> I delivered a copy of the summons to the person to whom it was directed, as follows:	Address or Location	Date
		Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.
<input checked="" type="checkbox"/> (For corporations, partnerships, and unincorporated associations which may be sued under a common name) I delivered a copy of the summons to an officer, managing or general agent, or agent authorized to accept service of process as follows:	Address or Location Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	Date 03/13/2017 Time 11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Name of person to whom the summons was delivered Faxing to 1-415-222-9958 (attn: Trust & Safety - Legal Policy)		
Signature 		
Title Special Agent		Date 03/13/2017

B. ACKNOWLEDGMENT OF RECEIPT		
I acknowledge receipt of a copy of the summons on the front of this form.		
Signature		
Title	Date	Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 8:05 AM
To: (b) (6), (b) (7)(C)
Subject: t

I coordinated with (b) (6), (b) (7)(C) I will keep you posted.

Respectfully,

(b) (6), (b) (7)(C)

*Assistant Special Agent in Charge
Investigative Operations Division
Office of Professional Responsibility
U.S. Customs and Border Protection*

cell: (b) (6), (b) (7)(C)
email: (b) (6), (b) (7)(C)



From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 8:49 AM
To: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

Hey if you have a contact in OCC we'll stand down. We met with them last month and made some great contacts - just offering up our resources.

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 8:47:13 AM
To: (b) (6), (b) (7)(C)
Cc: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

(b) (6), (b) (7)(C)

Please see me first so we can coordinate. I was given instruction from (b) (6), (b) (7)(C) to reach out to OCC. thanks

Respectfully,

(b) (6), (b) (7)(C)

Assistant Special Agent in Charge
Investigative Operations Division
Office of Professional Responsibility
U.S. Customs and Border Protection

cell: (b) (6), (b) (7)(C)

email: (b) (6), (b) (7)(C)



From: (b) (6), (b) (7)(C)

Sent: Wednesday, April 05, 2017 8:46 AM

To: (b) (6), (b) (7)(C)

FUNN, ERICK K (OPR) <(b) (6), (b) (7)(C)>

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Subject: RE: The Summons for Twitter account

(b) (6), (b) (7)(C)

Please leverage our OCC contacts and work with (b) (6) to address the response from twitter in the email string below.

Thanks,

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Wednesday, April 05, 2017 4:40:01 AM

To: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

Subject: FW: The Summons for Twitter account

Fysa

We may need to engage OCC.

From: (b) (6), (b) (7)(C)

Sent: Tuesday, April 04, 2017 11:14:46 PM

To: (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

Subject: FW: The Summons for Twitter account

(b) (6), (b) (7)(C)

Please see the below email. I was just informed that twitter is challenging the summons in court unless we withdraw it in the next 48hrs.

Please advice

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Tuesday, April 04, 2017 11:10:29 PM

To: (b) (6), (b) (7)(C)

Subject: FW: The Summons for Twitter account

Agent (b) (7)(C), (b) (6)

We are now representing Twitter in connection with the Section 1509 summons concerning the @alt_uscis account. Please direct any further communications on this matter to my attention.

As (b) (6), (b) (7)(C) has indicated, Twitter has significant concerns regarding the summons, and Twitter intends to file a challenge to the summons in court unless it is withdrawn within 48 hours of (b) (6), (b) (7)(C) email to you earlier today.

The language of 19 U.S.C. § 1509 indicates that a summons such as this may be used to compel the production of records only when the agency is engaged in an investigation relating to compliance with laws concerning imported merchandise. In addition, the types of records whose production may be compelled by such a summons are narrowly defined in §§ 1508 and 1509—again, as limited to records relating to imported merchandise. You have not provided Twitter with any basis to conclude that either the purpose of the summons, or the type of the records it demands Twitter to produce, fall within these statutory parameters.

In addition, Twitter is concerned that the summons infringes the First Amendment rights of its users to speak pseudonymously on the Twitter platform and Twitter's own First Amendment rights to host such speech. Because enforcement of the summons would impact one or more Twitter users who have been using Twitter's service to engage in criticism of the government without disclosing their real identities, the First Amendment interests at stake here are heightened. Twitter believes that, under the First Amendment, there should be no enforcement of the summons absent an evidentiary showing by CBP that that some criminal or civil offense has been committed, that unmasking the users' identity is the least restrictive means for investigating that offense, that the agency's demand for this information is not motivated by a desire to suppress free speech, and that the interests of pursuing that investigation outweigh the important free speech rights of Twitter and its users. Your communications to Twitter have not indicated that such a showing can be made in these circumstances.

Regards,

(b) (6), (b) (7)(C) WilmerHale

(b) (6), (b) (7)(C)

Washington, DC 20006 USA

(b) (6), (b) (7)(C)t

f)

(b) (6), (b) (7)(C)

----- Forwarded message -----

From: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Date: Tue, Apr 4, 2017 at 11:45 AM

Subject: RE: The Summons for Twitter account

To: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Per our phone conversation, CBP had no intention of acquiring a non-disclosure and that we did not have an issue if twitter notified the account holder. I also understand that your question of legal attority was cleared up and that you understood that it was within the scope.

That is because if a person or group is using Twitter to release controlled information or message ways around laws that CBP is responsible to enforce it would fall under that summons.

Are you now saying that you do not feel that the summons is not valid?

(b) (6), (b)
(7)(C)

From: (b) (6), (b) (7)(C)
Sent: Tuesday, April 04, 2017 7:12:31 PM
To: (b) (6), (b) (7)(C)
Subject: Re: The Summons for Twitter account

Agent (b) (6), (b)
(7)(C)

Please be advised that consistent with my last email, we provided notice to the user of the @alt_uscis account of your request for account information. Due to unresolved concerns regarding the legality of the summons, we have also notified the user that it is our intent to file a challenge in the next 48 hours unless the summons is withdrawn. Please notify Twitter as soon as possible in writing if you would like to withdraw the summons.

Best regards,

(b) (6), (b) (7)(C)

On Sun, Apr 2, 2017 at 11:14 AM, (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

wrote:

Agent (b) (6), (b) (7)

Thanks for your email. Just to clarify, as I explained to you on the phone, Twitter has a policy of providing notice to our users of requests for their account information. We do not provide notice if we receive a valid non-disclosure order issued under 18 U.S.C. 2705(b). As I understand your message, you are confirming for me that CPB does not plan to obtain such an order. As such, we will proceed with notice on Monday. We do not view user notice as having any bearing any objections to the summons that the user or Twitter may have.

Best regards,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C), (b) (7)(E)

On Fri, Mar 31, 2017 at 8:45 AM, (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

wrote:

(b) (6), (b) (7)(C)

Per our phone conversation, I wanted to advice you that as long as CBP gets the requested information from twitter, I'm ok with twitter notifying the account holder. If you would like you can email the requested information to me as well.

Thank you again for all the help,

(b) (7)(C), (b) (6)

Special Agent | OFFICE OF PROFESSIONAL RESPONSIBILITY | DEPARTMENT OF HOMELAND SECURITY | U.S. CUSTOMS AND BORDER PROTECTION

Office (b) (6), (b) (7)(C)

Cellular (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) Electronic

Mail (b) (6), (b) (7)(C)

(b) (7)(E)

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--

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(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

Associate General Counsel - Global Law Enforcement

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C) (OPR)
Sent: Wednesday, April 05, 2017 4:20 AM
To: (b) (6), (b) (7)(C) (OPR)
Subject: RE: The Summons for Twitter account

Copy. I know (b) (6), (b) (7)(C) SAC (b) (6), (b) (7)(C) ad visibilty. He sent it during the snow storm in march. I will follow up.

From: (b) (6), (b) (7)(C) (OPR)
Sent: Wednesday, April 05, 2017 10:16:53 AM
To: (b) (6), (b) (7)(C) (OPR)
Subject: RE: The Summons for Twitter account

Maybe they have been able to justify its use in the past; would be interested to know.

If they have not, as investigators...we must first read what it is we are sending out and actually research all the citations of law to ensure the document is applicable.

DD-FO(A) (b) (6), (b) (7)(C)
DHS | CBP | OPR | IOD | HQ - Washington, D.C.
Cell: (b) (6), (b) (7)(C) E-Mail: (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C) (OPR)
Sent: Wednesday, April 05, 2017 5:08:49 AM
To: (b) (6), (b) (7)(C) (OPR)
Subject: RE: The Summons for Twitter account

I believe thay is the guidance (b) (6), (b) (7)(C) ave (b) (6), (b) (7) but I need to confirm.

From: (b) (6), (b) (7)(C) (OPR)
Sent: Wednesday, April 05, 2017 10:04:32 AM
To: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

The Customs admin summons was not intended for such a request. Our admin legal request documents are lacking. We need to engage the USAO and see if a Grand Jury subpoena or equivalent is obtainable.

Why did we use a Customs summons?

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C) (OPR)

Sent: Wednesday, April 05, 2017 4:40:01 AM

To: FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

Subject: FW: The Summons for Twitter account

Fysa

We may need to engage OCC.

From: (b) (6), (b) (7)(C)

Sent: Tuesday, April 04, 2017 11:14:46 PM

To: (b) (6), (b) (7)(C) (OPR)

Cc: (b) (6), (b) (7)(C)

Subject: FW: The Summons for Twitter account

(b) (6), (b) (7)(C)

Please see the below email. I was just informed that twitter is challenging the summons in court unless we withdraw it in the next 48hrs.

Please advice

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Tuesday, April 04, 2017 11:10:29 PM

To: (b) (6), (b) (7)(C)

Subject: FW: The Summons for Twitter account

Agent (b) (6), (b) (7)(C)

We are now representing Twitter in connection with the Section 1509 summons concerning the @alt_uscis account. Please direct any further communications on this matter to my attention.

As (b) (6), (b) (7)(C) has indicated, Twitter has significant concerns regarding the summons, and Twitter intends to file a challenge to the summons in court unless it is withdrawn within 48 hours of (b) (6), (b) (7)(C) email to you earlier today.

The language of 19 U.S.C. § 1509 indicates that a summons such as this may be used to compel the production of records only when the agency is engaged in an investigation relating to compliance with laws concerning imported merchandise. In addition, the types of records whose production may be compelled by such a summons are narrowly defined in §§ 1508 and 1509—again, as limited to records relating to imported merchandise. You have not provided Twitter with any basis to conclude that either the purpose of the summons, or the type of the records it demands Twitter to produce, fall within these statutory parameters.

In addition, Twitter is concerned that the summons infringes the First Amendment rights of its users to speak pseudonymously on the Twitter platform and Twitter's own First Amendment rights to host such speech. Because enforcement of the summons would impact one or more Twitter users who have been using Twitter's service to engage in criticism of the government without disclosing their real identities, the First Amendment interests at stake here are heightened. Twitter believes that, under the First Amendment, there should be no enforcement of the summons absent an evidentiary showing by CBP that that some criminal or civil offense has been committed, that unmasking the users' identity is the least restrictive means for investigating that offense, that the agency's demand for this information is not motivated by a desire to suppress free speech, and that the interests of pursuing that investigation outweigh the important free speech rights of Twitter and its users. Your communications to Twitter have not indicated that such a showing can be made in these circumstances.

Regards,

(b) (6), (b) (7)(C) WilmerHale

(b) (6), (b) (7)(C)

Washington, DC 20006 USA

(b) (6), (b) (7)(C)(t)

(f)

(b) (6), (b) (7)(C)

----- Forwarded message -----

From: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Date: Tue, Apr 4, 2017 at 11:45 AM

Subject: RE: The Summons for Twitter account

To: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Per our phone conversation, CBP had no intention of acquiring a non-disclosure and that we did not have an issue if twitter notified the account holder. I also understand that your question of legal attority was cleared up and that you understood that it was within the scope.

That is because if a person or group is using Twitter to release controlled information or message ways around laws that CBP is responsible to enforce it would fall under that summons.

Are you now saying that you do not feel that the summons is not valid?

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Tuesday, April 04, 2017 7:12:31 PM

To: (b) (6), (b) (7)(C)

Subject: Re: The Summons for Twitter account

Agent (b) (6), (b) (7)(C)

Please be advised that consistent with my last email, we provided notice to the user of the @alt_uscis account of your request for account information. Due to unresolved concerns regarding the legality of the summons, we have also notified the user that it is our intent to file a challenge in the next 48 hours unless the summons is withdrawn. Please notify Twitter as soon as possible in writing if you would like to withdraw the summons.

Best regards,

(b) (6), (b) (7)(C)

On Sun, Apr 2, 2017 at 11:14 AM, (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

wrote:

Agent (b) (6), (b) (7)(C)

Thanks for your email. Just to clarify, as I explained to you on the phone, Twitter has a policy of providing notice to our users of requests for their account information. We do not provide notice if we receive a valid non-disclosure order issued under 18 U.S.C. 2705(b). As I understand your message, you are confirming for me that CPB does not plan to obtain such an order. As such, we will proceed with notice on Monday. We do not view user notice as having any bearing any objections to the summons that the user or Twitter may have.

Best regards,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C), (b) (7)(E)

On Fri, Mar 31, 2017 at 8:45 AM, (b) (6), (b) (7)(C)

) (7)(C)

wrote:

(b) (6), (b) (7)(C)

Per our phone conversation, I wanted to advise you that as long as CBP gets the requested information from twitter, I'm ok with twitter notifying the account holder. If you would like you can email the requested information to me as well.

Thank you again for all the help,

(b) (6), (b) (7)(C)

Special Agent | OFFICE OF PROFESSIONAL RESPONSIBILITY | DEPARTMENT OF HOMELAND SECURITY | U.S. CUSTOMS AND BORDER PROTECTION

Office (b) (6), (b) (7)(C)

Cellular

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) Electronic

Mail

(b) (6), (b) (7)(C)

(b) (7)(E)

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(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

Associate General Counsel - Global Law Enforcement

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 1:57 PM
To: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

Hi (b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

Thanks!

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Attorney (Ethics, Labor and Employment)
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

Washington, D.C. 20229

Work: (b) (6), (b) (7)(C)

Cell: (b) (6), (b) (7)(C)

Fax: (b) (6), (b) (7)(C)

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-----Original Message-----

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 1:48 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

Thank you.

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel
(Enforcement & Operations)
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

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-----Original Message-----

From: (b) (6), (b) (7)(C)

Sent: Wednesday, April 05, 2017 1:42 PM

To: (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

Subject: FW: The Summons for Twitter account

Hi (b) (6), (b) (7)(C)

(b) (5)

Thank you,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Attorney (Ethics, Labor and Employment)

Office of Chief Counsel

U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

Washington, D.C. 20229

Work: (b) (6), (b) (7)(C)

Cell: (b) (6), (b) (7)(C)

Fax: (b) (6), (b) (7)(C)

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-----Original Message-----

From: (b) (6), (b) (7)(C)

Sent: Wednesday, April 05, 2017 1:40 PM

To: (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

ERICK K (OPR) (b) (6), (b) (7)(C)

FUNN,

Subject: RE: The Summons for Twitter account

Terrific! Thanks!

-----Original Message-----

From: (b) (6), (b) (7)(C) (OPR)

Sent: Wednesday, April 05, 2017 1:38 PM

To: (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

FUNN,

ERICK K (OPR) (b) (6), (b) (7)(C)

Subject: RE: The Summons for Twitter account

(b) (6), (b) (7)(C)

Thanks for your efforts.

(b) (5), (b) (6), (b) (7)(C)

Respectfully,

(b) (6), (b) (7)(C)

Assistant Special Agent in Charge
Investigative Operations Division
Office of Professional Responsibility
U.S. Customs and Border Protection

cell (b) (6), (b) (7)(C)

email: (b) (6), (b) (7)(C)

-----Original Message-----

From: (b) (6), (b) (7)(C)

Sent: Wednesday, April 05, 2017 1:28 PM

To: (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

Subject: FW: The Summons for Twitter account

Importance: High

Hi (b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

Thanks so much.

VR,
(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel
Ethics, Labor and Employment
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

Washington, D.C. 20229

(b) (6), (b) (7)(C)

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-----Original Message-----

From: (b) (6), (b) (7)(C) (OPR)

Sent: Wednesday, April 05, 2017 9:57 AM

To: (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

<(b) (6), (b) (7)(C)

FUNN, ERICK

K (OPR) (b) (6), (b) (7)(C)

Subject: FW: The Summons for Twitter account

Importance: High

Good morning (b) (6), (b) (7)(C)

(b) (5)

At your convenience, could we discuss this issue? Thank you.

(b) (6), (b) (7)(C)

(b) (7)(E)

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--

--

(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

Associate General Counsel - Global Law Enforcement

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Tuesday, April 04, 2017 1:30 PM
To: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

(b) (6), (b) (7)(C)

Would you please give me a call at (b) (6), (b) (7)(C)

Thank you

(b) (7)(C),
(b) (6)

From: (b) (6), (b) (7)(C)
Sent: Tuesday, April 04, 2017 7:12:31 PM
To: (b) (6), (b) (7)(C)
Subject: Re: The Summons for Twitter account

Agent (b) (7)(C),
(b) (6)

Please be advised that consistent with my last email, we provided notice to the user of the @alt_uscis account of your request for account information. Due to unresolved concerns regarding the legality of the summons, we have also notified the user that it is our intent to file a challenge in the next 48 hours unless the summons is withdrawn. Please notify Twitter as soon as possible in writing if you would like to withdraw the summons.

Best regards,

(b) (6), (b) (7)(C)

On Sun, Apr 2, 2017 at 11:14 AM, (b) (6), (b) (7)(C) wrote:
Agent (b) (6), (b) (7)(C)

Thanks for your email. Just to clarify, as I explained to you on the phone, Twitter has a policy of providing notice to our users of requests for their account information. We do not provide notice if we receive a valid non-disclosure order issued under 18 U.S.C. 2705(b). As I understand your message, you are confirming for me that CPB does not plan to obtain such an order. As such, we will proceed with notice on Monday. We do not view user notice as having any bearing any objections to the summons that the user or Twitter may have.

Best regards,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C), (b) (7)(E)

On Fri, Mar 31, 2017 at 8:45 AM, (b) (7)(C), (b) (6)

(b) (6), (b) (7)(C)

wrote:

(b) (6), (b) (7)(C)

Per our phone conversation, I wanted to advise you that as long as CBP gets the requested information from twitter, I'm ok with twitter notifying the account holder. If you would like you can email the requested information to me as well.

Thank you again for all the help,

(b) (6), (b) (7)(C)

Special Agent | OFFICE OF PROFESSIONAL RESPONSIBILITY | DEPARTMENT OF HOMELAND SECURITY | U.S. CUSTOMS AND BORDER PROTECTION

Office (b) (6), (b) (7)(C)

Cellular

(b) (6), (b) (7)(C)

Electronic Mail

(b) (6), (b) (7)(C)

(b) (7)(E)

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--

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 12:48 PM
To: (b) (6), (b) (7)(C)
Cc:
Subject: RE: The Summons for Twitter account

Thank you.

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel
(Enforcement & Operations)
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

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-----Original Message-----

From: (b) (6), (b) (7)(C)

Sent: Wednesday, April 05, 2017 1:42 PM

To: (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

Subject: FW: The Summons for Twitter account

Hi (b) (6), (b) (7)(C)

(b) (5)

Thank you,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Attorney (Ethics, Labor and Employment)
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

Washington, D.C. 20229

Work: (b) (6), (b) (7)(C)

Cell: (b) (6), (b) (7)(C)

Fax:

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-----Original Message-----

From: (b) (6), (b) (7)(C)

Sent: Wednesday, April 05, 2017 1:40 PM

To: (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) FUNN,

ERICK K (OPR) (b) (6), (b) (7)(C)

Subject: RE: The Summons for Twitter account

Terrific! Thanks!

-----Original Message-----

From: (b) (6), (b) (7)(C) (OPR)

Sent: Wednesday, April 05, 2017 1:38 PM

To: (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) FUNN,

ERICK K (OPR) (b) (6), (b) (7)(C)

Subject: RE: The Summons for Twitter account

(b) (6), (b) (7)(C)

Thanks for your efforts. (b) (5), (b) (6), (b) (7)(C)

Respectfully,

(b) (6), (b) (7)(C)

Assistant Special Agent in Charge
Investigative Operations Division
Office of Professional Responsibility
U.S. Customs and Border Protection

cell: (b) (6), (b) (7)(C)

email: (b) (6), (b) (7)(C)

-----Original Message-----

From: (b) (6), (b) (7)(C)

Sent: Wednesday, April 05, 2017 1:28 PM

To: (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

Subject: FW: The Summons for Twitter account

Importance: High

Hi (b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

Thanks so much.

VR

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel
Ethics, Labor and Employment
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

Washington, D.C. 20229

(b) (6), (b) (7)(C) (tel)

(b) (6), (b) (7)(C) (fax)

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-----Original Message-----

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 10:25 AM
To: (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

T4 no worries....just wanted to make sure we helped push. I really never thought they applied either, but in a round about way it can be articulated how these cases affect trade.....something for the legal beagles.

Best Regards,

(b) (6), (b) (7)(C)
Assistant Special Agent in Charge

(b) (6), (b) (7)(C) Washington Office
(b) (6), (b) (7)(C) Miami Office
(b) (6), (b) (7)(C) Cellular
(b) (6), (b) (7)(C) Miami Lab
(b) (6), (b) (7)(C)

U.S. Customs & Border Protection
Office of Professional Responsibility
Investigative Operations Division

(b) (7)(E)
(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 9:14 AM
To: (b) (6), (b) (7)(C)
FUNN, ERICK K (OPR) <(b) (6), (b) (7)(C)>
(b) (6), (b) (7)(C)
(b) (7)(C), (b) (6) (b) (6), (b) (7)(C)
Subject: RE: The Summons for Twitter account

(b) (6), (b) (7)(C)

I provided a (b) (6) a contact with OCC. This push back is nothing new with these summonses. ICE tried it with several tech companies in 2016 and some complied, but Google pushed back with a similar argument.

(b) (6), (b) (7)(C)

Cell: (b) (6), (b) (7)(C)
Desk: (b) (6), (b) (7)(C)

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knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record or thing of value to the U.S. Customs and Border Protection shall be fined or imprisoned not more than ten (10) years pursuant to 18 USC 641.

From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 05, 2017 8:46 AM
To: (b) (6), (b) (7)(C)

FUNN, ERICK K (OPR) <(b) (6), (b) (7)(C)>

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Subject: RE: The Summons for Twitter account

(b) (6), (b) (7)(C)

Please leverage our OCC contacts and work with (b) (6), (b) (7) to address the response from twitter in the email string below.

Thanks,

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C) (OPR)
Sent: Wednesday, April 05, 2017 4:40:01 AM
To: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)
Subject: FW: The Summons for Twitter account

Fysa
We may need to engage OCC.

From: (b) (6), (b) (7)(C)
Sent: Tuesday, April 04, 2017 11:14:46 PM
To: (b) (6), (b) (7)(C) (OPR)
Cc: DOWNEY, JAMES F (OPR)
Subject: FW: The Summons for Twitter account

(b) (6), (b) (7)(C)

Please see the below email. I was just informed that twitter is challenging the summons in court unless we withdraw it in the next 48hrs.

Please advice

(b) (6),
(b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Tuesday, April 04, 2017 11:10:29 PM
To: (b) (7)(C), (b) (6)
Subject: FW: The Summons for Twitter account

Agent (b) (7)(C),
(b) (6)

We are now representing Twitter in connection with the Section 1509 summons concerning the @alt_uscis account. Please direct any further communications on this matter to my attention.

As (b) (6), (b) (7)(C) has indicated, Twitter has significant concerns regarding the summons, and Twitter intends to file a challenge to the summons in court unless it is withdrawn within 48 hours of (b) (6), (b) (7)(C) email to you earlier today.

The language of 19 U.S.C. § 1509 indicates that a summons such as this may be used to compel the production of records only when the agency is engaged in an investigation relating to compliance with laws concerning imported merchandise. In addition, the types of records whose production may be compelled by such a summons are narrowly defined in §§ 1508 and 1509—again, as limited to records relating to imported merchandise. You have not provided Twitter with any basis to conclude that either the purpose of the summons, or the type of the records it demands Twitter to produce, fall within these statutory parameters.

In addition, Twitter is concerned that the summons infringes the First Amendment rights of its users to speak pseudonymously on the Twitter platform and Twitter's own First Amendment rights to host such speech. Because enforcement of the summons would impact one or more Twitter users who have been using Twitter's service to engage in criticism of the government without disclosing their real identities, the First Amendment interests at stake here are heightened. Twitter believes that, under the First Amendment, there should be no enforcement of the summons absent an evidentiary showing by CBP that that some criminal or civil offense has been committed, that unmasking the users' identity is the least restrictive means for investigating that offense, that the agency's demand for this information is not motivated by a desire to suppress free speech, and that the interests of pursuing that investigation outweigh the important free speech rights of Twitter and its users. Your communications to Twitter have not indicated that such a showing can be made in these circumstances.

Regards,

(b) (6), (b) (7)(C) WilmerHale

(b) (6), (b) (7)(C)

Washington, DC 20006 USA

(b) (6), (b) (7)(C) (t)

(f)

(b) (6), (b) (7)(C)

----- Forwarded message -----

From: (b) (7)(C), (b) (6)

(b) (6), (b) (7)(C)

Date: Tue, Apr 4, 2017 at 11:45 AM

Subject: RE: The Summons for Twitter account

To: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Per our phone conversation, CBP had no intention of acquiring a non-disclosure and that we did not have an issue if twitter notified the account holder. I also understand that your question of legal attority was cleared up and that you understood that it was within the scope.

That is because if a person or group is using Twitter to release controlled information or message ways around laws that CBP is responsible to enforce it would fall under that summons.

Are you now saying that you do not feel that the summons is not valid?

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Tuesday, April 04, 2017 7:12:31 PM

To: (b) (6), (b) (7)(C)

Subject: Re: The Summons for Twitter account

Agent (b) (6), (b) (7)(C)

Please be advised that consistent with my last email, we provided notice to the user of the @alt_uscis account of your request for

account information. Due to unresolved concerns regarding the legality of the summons, we have also notified the user that it is our intent to file a challenge in the next 48 hours unless the summons is withdrawn. Please notify Twitter as soon as possible in writing if you would like to withdraw the summons.

Best regards,

(b) (6), (b) (7)(C)

On Sun, Apr 2, 2017 at 11:14 AM, (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Agent (b) (6), (b) (7)(C)

Thanks for your email. Just to clarify, as I explained to you on the phone, Twitter has a policy of providing notice to our users of requests for their account information. We do not provide notice if we receive a valid non-disclosure order issued under 18 U.S.C. 2705(b). As I understand your message, you are confirming for me that CPB does not plan to obtain such an order. As such, we will proceed with notice on Monday. We do not view user notice as having any bearing any objections to the summons that the user or Twitter may have.

Best regards,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

San Francisco | CA, 94103

(b) (6), (b) (7)(C), (b) (7)(E)

On Fri, Mar 31, 2017 at 8:45 AM, (b) (7)(C), (b) (6)

(b) (6), (b) (7)(C)

wrote:

(b) (6), (b) (7)(C)

Per our phone conversation, I wanted to advice you that as long as CBP gets the requested information from twitter, I'm ok with twitter notifying the account holder. If you would like you can email the requested information to me as well.

Thank you again for all the help,

(b) (6), (b) (7)(C)

Special Agent | OFFICE OF PROFESSIONAL RESPONSIBILITY | DEPARTMENT OF HOMELAND SECURITY | U.S. CUSTOMS AND BORDER PROTECTION

Office (b) (6), (b) (7)(C)

Cellular

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) Electronic

Mail

(b) (6), (b) (7)(C)

(b) (7)(E)

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(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

Associate General Counsel - Global Law Enforcement

(b) (6), (b) (7)(C) San Francisco | CA, 94103

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C), (b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, March 02, 2017 3:06 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Search results EOC (b) (7)(E)

Follow Up Flag: Follow up
Flag Status: Flagged

(b) (6), (b) (7)(C)

Has access to (b) (7)(E) .

Best Regards,

(b) (6), (b) (7)(C)
Assistant Special Agent in Charge

(b) (6), (b) (7)(C)
Washington Office
Miami Office
Cellular
Miami Lab
(b) (6), (b) (7)(C)

U.S. Customs & Border Protection
Office of Professional Responsibility
Investigative Operations Division

(b) (7)(E)
(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C))
Sent: Thursday, March 02, 2017 10:31 AM
To: (b) (6), (b) (7)(C)
Subject: FW: Search results EOC (b) (7)(E)

FYSA
Thanks,

(b) (6), (b) (7)(C)
Cell: (b) (6), (b) (7)(C)
(Sent via Good Enterprise)

From: (b) (6), (b) (7)(C)
Sent: Thursday, March 02, 2017 8:29:09 AM
To: (b) (6), (b) (7)(C)
Subject: RE: Search results EOC (b) (7)(E)

Thanks

From: (b) (6), (b) (7)(C)
Sent: Thursday, March 02, 2017 10:26 AM
To: (b) (6), (b) (7)(C)
Subject: RE: Search results EOC (b) (7)(E)

No problem. On official travel.

I have them saved to my share. When I get a chance I can move them to (b) (7)(E) where you need (b) (6), (b) (7)(C) give you access too.

Thanks,

(b) (6), (b) (7)(C)
Cell: (b) (6), (b) (7)(C)
(Sent via Good Enterprise)

From: (b) (6), (b) (7)(C)
Sent: Thursday, March 02, 2017 8:16:02 AM
To: (b) (6), (b) (7)(C)
Subject: RE: Search results EOC (b) (7)(E)

(b) (6), (b) (7)(C)

Sorry to bother you since you are on leave, but this link is not working for me. Are they saved somewhere that I can have access to? Also, are they or have they sent you updated files?

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Wednesday, March 01, 2017 3:53 PM
To: (b) (6), (b) (7)(C)
Subject: FW: Search results EOC (b) (7)(E)

(b) (6), (b) (7)(C) see if the link is still good. I do have them downloaded on my end.

(b) (6), (b) (7)(C)

Cell: (b) (6), (b) (7)(C)
Desk: (b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 6:32 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Search results EOC (b) (7)(E)

Hi (b) (6), (b) (7)(C)

Your recovered emails have been successfully copied to the following location:

(b) (7)(E)

From the TRUMP TRUMP TRUMP TRUMP subject search there are (b) (7)(E) email messages. A search using @tuta.io was run. There were (b) (7)(E) email messages with name@tuta.io (where name means user name, and some were found in the attachments). The results from that search were copied to the (b) (7)(E)

Click on the above link to access your PST files and copy to a location/folder on your (b) (7)(E). Each individual PST file will need to be copied.

Once the files have been copied to the new location you can access them in Outlook by doing the following:

To open the .PST file, open your Outlook and select File/Open/ Outlook Data File and browse to the new folder on your C drive all of the recovered messages will be found in a folder called "Root Items". Select that folder by clicking on it. You will now be able to view your emails in Outlook and move to any folder of your choice.

If you have any issues, please let me know. The searches will be run again tomorrow morning once the index on (b) (7)(E) is fixed.

I will be leaving for the night shortly, but will monitor my cell phone in case you see something else to be run.

Sincerely,

(b) (6), (b) (7)(C)

(b) (7)(E)

Office of Information and Technology (OIT)
Enterprise Services (ES)
U.S. Customs and Border Protection (CBP)
(w) (b) (6), (b) (7)(C) (c) (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 6:08 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Search results

I see. So no full address. No need to see them.

Thanks,

(b) (6), (b) (7)(C)

Cell (b) (6), (b) (7)(C)
Desk: (b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 6:07 PM

To: (b) (6), (b) (7)(C)

Subject: RE: Search results

It was searched in all contents, meaning searching all messages to and from fuckcbp@tuta.io. All messages that contained tuta.io (there were several hits, but none containing the full email address). Did you want to see those results? I can re-run that search.

And the last search using "TRUMP TRUMPTRUMP TRUMP TRUMPTRUMPTRUMP" in the body did not net any results. But all of the searches will be re-run tomorrow because of the issue on (b) (7)(E)

(b) (6), (b) (7)(C)

(b) (7)(E)

Office of Information and Technology (OIT)

Enterprise Services (ES)

U.S. Customs and Border Protection (CBP)

(w) (b) (6), (b) (7)(C) (c) (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Thursday, February 23, 2017 6:04 PM

To: (b) (6), (b) (7)(C)

Subject: RE: Search results

(b) (6), (b) (7)(C)

Can you tell me in what context "tuta.io" was used? I think running "TRUMP TRUMPTRUMP TRUMP TRUMPTRUMPTRUMP" in the body would be great.

Thanks for the assistance!

(b) (6), (b) (7)(C)

Cell: (b) (6), (b) (7)(C)

Desk (b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)

Sent: Thursday, February 23, 2017 5:49 PM

To: (b) (6), (b) (7)(C)

COLE, ALMA R. (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

(b) (7)(E)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Subject: Search results

Good Evening All:

OPR just reached out to eDiscovery as well. A back page was given so an additional search was conducted. Four searches have been run. Below is a screen shot of the results. The time frame for each search starts November 1, 2016 and the end date is today, February 23, 2017.

There is an issue (b) (7)(E)

As of right now here are the search results.

From	Subject	Date
(b) (7)(E)	hunger games	(b) (6), (b) (7)(C) 2/23/2017 5:32:00...
(b) (7)(E)	ALT USCIS	2/23/2017 5:11:00...
(b) (7)(E)	tuta.io	2/23/2017 5:08:00...
(b) (7)(E)	TRUMP (Multip...	2/23/2017 5:02:00...

(b) (7)(E)

For the search concerning TRUMP, in the subject line the scope of the search was "TRUMP TRUMP TRUMP TRUMP". The (b) (7)(E) hits include duplicates sent from Bulletin Intelligence. For the email address there were no hits. If only tuta.io was used there were hits, but not including fuckcbp.tuta.io. There was on hit for AltImmigration@ALT USCIS. That email was from Mr. Flanagan to Mr. McAleenan. The last search used "redneck bruh hunger games". (b) (7)(E)

Another search for content can be run using TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP to see if there are any different results.

Sincerely,

(b) (6), (b) (7)(C)

(b) (7)(E)

Office of Information and Technology (OIT)
Enterprise Services (ES)
U.S. Customs and Border Protection (CBP)
(w) (b) (6), (b) (7)(C) (c) (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 5:00 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Email Legality of search request

Yes, I am with (b) (6), (b) (7)(C) now. Thanks.

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 4:57:02 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: FW: Email Legality of search request

Good Evening (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) sent this email coming from (b) (6), (b) (7)(C) to ascertain how wide spread the 3 attachments may have through CBP. I wanted to make you aware of this request for its legality. In a conversation with (b) (6), (b) (7)(C) all

(b) (7)(E)

Sincerely,

(b) (6), (b) (7)(C)

(b) (7)(E)

Office of Information and Technology (OIT)
Enterprise Services (ES)
U.S. Customs and Border Protection (CBP)
(w) (b) (6), (b) (7)(C) (c) (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 4:21 PM
To: (b) (7)(E) TEAM (b) (7)(E)
Subject: FW: Email
Importance: High

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 4:12 PM
To: (b) (6), (b) (7)(C) CBP SOC (b) (7)(E)
Cc: (b) (6), (b) (7)(C)
Subject: FW: Email
Importance: High

I want these email subjects searched for in (b) (7)(E)
Who can do this?

(b) (6), (b) (7)(C)

From: LANDFRIED, PHIL A
Sent: Thursday, February 23, 2017 3:50 PM
To: (b) (6), (b) (7) (b) (6), (b) (7)(C)
Subject: FW: Email

Not sure what do with this one. Hopefully you have some Ideas

Thanks.

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 3:48 PM
To: LANDFRIED, PHIL A (b) (6), (b) (7)(C); KARISCH, RODOLFO (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: FW: Email

AC LANDFRIED and AC KARISCH,

Please see attached from Twitter Account Alt Immigration.

It purports to have a series of emails from 5 CBPOs.

(b) (5), (b) (7)(E)

The initial data dump appears to be a single email chain, but the tweet indicates more emails to come.

Additionally, the third attachment is a tweet I sent to AC KARISCH earlier today, indicating the group is willing to pay for negative information on our employees.

Thank you for looking into the matter.

V/R

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)

Sent: Thursday, February 23, 2017 3:24 PM

To: (b) (6), (b) (7)(C)

Cc:

Subject: Email

Good afternoon,

The information you requested is attached. Please let me know if you need anything else.

Thanks!

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Office of Public Affairs

U.S. Customs and Border Protection

Office: (b) (6), (b) (7)(C) Cell (b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 5:40 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Search results EOC (b) (7)(E)

You too!

(b) (6), (b) (7)(C)

(b) (7)(E)

Office of Information and Technology (OIT)
Enterprise Services (ES)
U.S. Customs and Border Protection (CBP)
(w/ (b) (6), (b) (7)(C) (c) (b) (6), (b) (7)(C))

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 6:36 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Search results EOC (b) (7)(E)

Thanks. Have a good night.

(b) (6), (b) (7)(C)

Cell: (b) (6), (b) (7)(C)
Desk: (b) (6), (b) (7)(C)

Important: This document contains U.S. Customs and Border Protection information and records that may be confidential and sensitive. U.S. Customs and Border Protection has not approved this documents review, retransmission, dissemination, or use by anyone other than the intended recipient(s) listed above, please deliver immediately to the intended recipient(s). Anyone who steals, knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record or thing of value to the U.S. Customs and Border Protection shall be fined or imprisoned not more then ten (10) years pursuant to 18 USC 641.

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 6:32 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Search results EOC (b) (7)(E)

Hi (b) (6), (b) (7)(C)

Your recovered emails have been successfully copied to the following location:

(b) (7)(E)

From the TRUMP TRUMP TRUMP TRUMP subject search there are (b) (7)(E) email messages. A search using @tuta.io was run. There were (b) (7)(E) email messages with name@tuta.io (where name means user name, and some were found in the attachments). The results from that search were copied to the (b) (7)(E)

Click on the above link to access your PST files and copy to a location/folder on your (b) (7)(E) Each individual PST file will need to be copied.

Once the files have been copied to the new location you can access them in Outlook by doing the following:

To open the .PST file, open your Outlook and select File/Open/ Outlook Data File and browse to the new folder on your C drive all of the recovered messages will be found in a folder called "Root Items". Select that folder by clicking on it. You will now be able to view your emails in Outlook and move to any folder of your choice.

If you have any issues, please let me know. The searches will be run again tomorrow morning once the index on (b) (7)(E) is fixed.

I will be leaving for the night shortly, but will monitor my cell phone in case you see something else to be run.

Sincerely,

(b) (6), (b) (7)(C)

(b) (7)(E)

Office of Information and Technology (OIT)
Enterprise Services (ES)
U.S. Customs and Border Protection (CBP)
(w) (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 6:08 PM
To: (b) (6), (b) (7)(C) >
Subject: RE: Search results

I see. So no full address. No need to see them.

Thanks,

(b) (6), (b) (7)(C)

Cell: (b) (6), (b) (7)(C)
Desk (b) (6), (b) (7)(C)

Important: This document contains U.S. Customs and Border Protection information and records that may be confidential and sensitive. U.S. Customs and Border Protection has not approved this documents review, retransmission, dissemination, or use by anyone other than the intended recipient(s) listed above, please deliver immediately to the intended recipient(s). Anyone who steals, knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record or thing of value to the U.S. Customs and Border Protection shall be fined or imprisoned not more than ten (10) years pursuant to 18 USC 641.

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 6:07 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Search results

It was searched in all contents, meaning searching all messages to and from fuckcbp@tuta.io. All messages that contained tuta.io (there were several hits, but none containing the full email address). Did you want to see those results? I can re-run that search.

And the last search using "TRUMP TRUMPTRUMP TRUMP TRUMPTRUMPTRUMP" in the body did not net any results. But all of the searches will be re-run tomorrow because of the issue on (b) (7)(E)

(b) (6), (b) (7)(C)

(b) (7)(E)

Office of Information and Technology (OIT)
Enterprise Services (ES)
U.S. Customs and Border Protection (CBP)
(w) (b) (6), (b) (7)(C) (c) (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 6:04 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Search results

(b) (6), (b) (7)(C)

Can you tell me in what context "tuta.io" was used? I think running "TRUMP TRUMPTRUMP TRUMP TRUMPTRUMPTRUMP" in the body would be great.

Thanks for the assistance!

(b) (6), (b) (7)(C)

Cell: (b) (6), (b) (7)(C)
Desk: (b) (6), (b) (7)(C)

Important: This document contains U.S. Customs and Border Protection information and records that may be confidential and sensitive. U.S. Customs and Border Protection has not approved this documents review, retransmission, dissemination, or use by anyone other than the intended recipient(s) listed above, please deliver immediately to the intended recipient(s). Anyone who steals, knowingly converts to his use or the use of another, or without authority, sells, conveys or disposes of any record or thing of value to the U.S. Customs and Border Protection shall be fined or imprisoned not more then ten (10) years pursuant to 18 USC 641.

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 5:49 PM
To: (b) (6), (b) (7)(C) (b) (6), (b) (7) (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C) (b) (7)(E) (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
Subject: Search results

Good Evening All:

OPR just reached out to eDiscovery as well. A back page was given so an additional search was conducted. Four searches have been run. Below is a screen shot of the results. The time frame for each search starts November 1, 2016 and the end date is today, February 23, 2017.

There is an issue with (b) (7)(E)
As of right now here are the search results.

FROM	SUBJECT	DATE
(b) (7)(E) hunger games	(b) (6), (b) (7)(C)	2/23/2017 5:32:00...
(b) (7)(E) ALT USCIS	(b) (6), (b) (7)(C)	2/23/2017 5:11:00...
(b) (7)(E) tuta.io	(b) (6), (b) (7)(C)	2/23/2017 5:08:00...
(b) (7)(E) TRUMP (Multip...	(b) (6), (b) (7)(C)	2/23/2017 5:02:00...

(b) (7)(E)

For the search concerning TRUMP, in the subject line the scope of the search was "TRUMP TRUMP TRUMP TRUMP". The 204 hits include duplicates sent from Bulletin Intelligence. For the email address there were no hits. If only tuta.io was used there were hits, but not including fuckcbp.tuta.io. There was one hit for AltImmigration@ALT_USCIS. That email was from (b) (6), (b) (7)(C) to Mr. McAleenan. The last search used "redneck bruh hunger games". There were no hits.

Another search for content can be run using TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP to see if there are any different results.

Sincerely,

(b) (6), (b) (7)(C)

(b) (7)(E)

Office of Information and Technology (OIT)
Enterprise Services (ES)
U.S. Customs and Border Protection (CBP)
(w) (b) (6), (b) (7)(C) (c) (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 5:00 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Email Legality of search request

Yes, I am with (b) (6), (b) (7)(C) now. Thanks.

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 4:57:02 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: FW: Email Legality of search request

Good Evening (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) sent this email coming from (b) (6), (b) (7)(C) to ascertain how wide spread the 3 attachments may have gone through CBP. I wanted to make you aware of this request for its legality. In a conversation with (b) (6), (b) (7)(C) all (b) (7)(E)

Sincerely,

(b) (6), (b) (7)(C)

(b) (7)(E)

(b) (7)(E)

Office of Information and Technology (OIT)
Enterprise Services (ES)
U.S. Customs and Border Protection (CBP)
(w) (b) (6), (b) (7)(C) (c) (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 4:21 PM
To: (b) (6), (b) (7)(C)
Subject: FW: Email
Importance: High

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 4:12 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: FW: Email
Importance: High

I want these email subjects searched for in (b) (7)(E)
Who can do this?

(b) (6), (b) (7)(C)

From: LANDFRIED, PHIL A
Sent: Thursday, February 23, 2017 3:50 PM
To: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
Subject: FW: Email

Not sure what do with this one. Hopefully you have some Ideas

Thanks

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 3:48 PM
To: LANDFRIED, PHIL A <(b) (6), (b) (7)(C)> KARISCH, RODOLFO (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: FW: Email

AC LANDFRIED and AC KARISCH,

Please see attached from Twitter Account Alt Immigration.

It purports to have a series of emails from 5 CBPOs.

(b) (5), (b) (7)(E)

The initial data dump appears to be a single email chain, but the tweet indicates more emails to come.

Additionally, the third attachment is a tweet I sent to AC KARISCH earlier today, indicating the group is willing to pay for negative information on our employees.

Thank you for looking into the matter.

V/R
Patrick

Patrick Flanagan

(b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)

Sent: Thursday, February 23, 2017 3:24 PM

To: (b) (6), (b) (7)(C)

Cc:

Subject: Email

Good afternoon,

The information you requested is attached. Please let me know if you need anything else.

Thanks!

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Office of Public Affairs

U.S. Customs and Border Protection

Office: (b) (6), (b) (7)(C) Cell: (b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 3:14 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Question on CBP response to Senators Gardner and Lee

No worries. (b) (6), (b) (7)(C) and I have connected on the issue. Thanks,

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 3:40 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Question on CBP response to Senators Gardner and Lee

Sir – Unfortunately I got a call from a committee staffer right after I hung up with you, and I think I missed your call. Were you and (b) (6), (b) (7)(C) able to connect about this issue?

V/r,

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 2:18 PM
To: (b) (6), (b) (7)(C)
Subject: Question on CBP response to Senators Gardner and Lee
Importance: High

(b) (6), (b) (7)(C)

I just spoke with (b) (6), (b) (7)(C) who pointed me in your direction. I have a question about the attached letter/response to Senators Gardner and Lee regarding CBP request for information from private companies. The letter references Twitter and the “@ALT_USCIS” account, but asks specifically for information about various practices/policies (not about information regarding that specific incident).

The response is sitting with PLCY for clearance, but I’m concerned it’s not directly responsive, which will lead to additional inquiries. Do either of you have time for a quick call this afternoon or tomorrow?

Thanks,

(b) (6), (b) (7)(C)

Acting Chief of Staff, Office of Policy
Department of Homeland Security
(b) (6), (b) (7)(C) (O) (b) (6), (b) (7)(C) (M)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 3:08 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Question on CBP response to Senators Gardner and Lee

Thanks!

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 4:06 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: RE: Question on CBP response to Senators Gardner and Lee

(b) (6), (b) (7)(C)

Sounds good. I just sent an updated invite for noon tomorrow Thank you

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 3:53 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: RE: Question on CBP response to Senators Gardner and Lee

Absolutely. I'm around all day (between 8:30 and 4:00), except from 10-11 and from 1-1:30.

(b) (5)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 3:44 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: FW: Question on CBP response to Senators Gardner and Lee
Importance: High

Hi (b) (6), (b) (7)(C)

DHS received another congressional inquiry regarding the Twitter case. This letter is for the Secretary's signature. CBP proposed the same response we sent to Senator Wyden earlier this month, however, it isn't completely responsive. I am including (b) (6), (b) (7)(C) from DHS Policy. I think it may be helpful if we have a follow up conversation regarding an appropriate response regarding this letter and if we receive others so that we are on the same page. Are you available for a call tomorrow?

Thank you

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Acting Assistant Commissioner
Office of Congressional Affairs
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Thursday, April 20, 2017 2:18 PM

To: (b) (6), (b) (7)(C)

Subject: Question on CBP response to Senators Gardner and Lee

Importance: High

(b) (6), (b) (7)(C)

I just spoke with (b) (6), (b) (7)(C) who pointed me in your direction. I have a question about the attached letter/response to Senators Gardner and Lee regarding CBP request for information from private companies. The letter references Twitter and the “@ALT_USCIS” account, but asks specifically for information about various practices/policies (not about information regarding that specific incident).

The response is sitting with PLCY for clearance, but I’m concerned it’s not directly responsive, which will lead to additional inquiries. Do either of you have time for a quick call this afternoon or tomorrow?

Thanks,

(b) (6), (b) (7)(C)

ice of Policy

Department of Homeland Security

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 3:27 PM
To: (b) (6), (b) (7)(C)
Cc:
Subject: RE: Question on CBP response to Senators Gardner and Lee

Great. Thanks.

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 4:17 PM
To: (b) (6), (b) (7)(C)
Cc:
Subject: RE: Question on CBP response to Senators Gardner and Lee

Sure thing, I will move it to 4 pm

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 4:16 PM
To: (b) (6), (b) (7)(C)
Cc:
Subject: RE: Question on CBP response to Senators Gardner and Lee

(b) (6), (b) (7)(C)

I am actually traveling tomorrow. My flight leaves at 12:30 and I'll be on the ground around 2:45. Could we push the call up to sometime between 9-11, or sometime after 3:30?

Thanks,

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 4:06 PM
To: (b) (6), (b) (7)(C)
Cc:
Subject: RE: Question on CBP response to Senators Gardner and Lee

(b) (6), (b) (7)(C)

Sounds good. I just sent an updated invite for noon tomorrow Thank you

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 3:53 PM
To: (b) (6), (b) (7)(C)
Cc:
Subject: RE: Question on CBP response to Senators Gardner and Lee

Absolutely. I'm around all day (between 8:30 and 4:00), except from 10-11 and from 1-1:30.

(b) (5)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 3:44 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: FW: Question on CBP response to Senators Gardner and Lee
Importance: High

Hi (b) (6), (b) (7)(C)

DHS received another congressional inquiry regarding the Twitter case. This letter is for the Secretary's signature. CBP proposed the same response we sent to Senator Wyden earlier this month, however, it isn't completely responsive. I am including (b) (6), (b) (7)(C) from DHS Policy. I think it may be helpful if we have a follow up conversation regarding an appropriate response regarding this letter and if we receive others so that we are on the same page. Are you available for a call tomorrow?

Thank you

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Acting Assistant Commissioner
Office of Congressional Affairs
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 2:18 PM
To: (b) (6), (b) (7)(C)
Subject: Question on CBP response to Senators Gardner and Lee
Importance: High

(b) (6), (b) (7)(C)

I just spoke with (b) (6), (b) (7)(C) who pointed me in your direction. I have a question about the attached letter/response to Senators Gardner and Lee regarding CBP request for information from private companies. The letter references Twitter and the "@ALT_USCIS" account, but asks specifically for information about various practices/policies (not about information regarding that specific incident).

The response is sitting with PLCY for clearance, but I'm concerned it's not directly responsive, which will lead to additional inquiries. Do either of you have time for a quick call this afternoon or tomorrow?

Thanks,

(b) (6), (b) (7)(C)

Acting Chief of Staff, Office of Policy
Department of Homeland Security

(b) (6), (b) (7)(C)

(b) (5)

(b) (5)

United States Senate
WASHINGTON, DC 20510

SCANNED/RECEIVED
BY ESEC SEC

2017 APR -7 PM 4:49

April 7, 2017

The Honorable John F. Kelly
Secretary of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, D.C. 20528

Dear Secretary Kelly:

We are writing to request clarification about U.S. Customs and Border Protection's (CBP's) internal protocols for ordering that private companies divulge their customers' names, addresses, account holder details, or any other personally identifiable information.

Recent news reports allege that a Special Agent in Charge at CBP ordered Twitter to reveal the identity of a Twitter user who operates a parody account called @ALT_USCIS. That Twitter user frequently criticizes the government's policies, specifically those policies in place at DHS and CBP. In order to better understand how and why CBP requests such information, please answer the following questions:

1. Under what statutory authority may CBP pursue agency investigations of private companies, their customers, or individuals? If DHS believes such CBP investigations may rely on multiple provisions of law, please list all that apply.
2. How many requests has CBP made of private companies for their customers' personally identifiable information or any other information that might otherwise lead CBP to the identity of any of those companies' customers?
3. Is there any official established policy at DHS or CBP that provides guidance to officials within CBP on when and whether such requests should be made? If so, please provide a reference to that specific policy and if not, please indicate how such decisions are made.
4. Prior to requesting that private companies divulge their customers' personally identifiable information or other details about their customers, does CBP pursue any other courses of action to attempt to complete their investigation without making such a request? If so, please detail what courses of action CBP typically takes prior to making such a request.
5. Is there any circumstance in which CBP would consider non-criminal speech a sole factor in whether to request that a private company divulge any of their customers' personally identifiable information or any other information that might otherwise lead CBP to the identity of any of those customers?

6. Are there instances outside of an official criminal or civil investigation in which CBP would request that a private company provide a customer's personally identifiable information or any other information that might otherwise lead CBP to the identity of that customer? If so, please provide examples of such instances.
7. Do DHS and CBP believe that an appropriate court order should be sought prior to requesting that a private company unmask the identity of one of their customers?

CBP must ensure that any properly authorized investigation does not disregard the rights to free speech enshrined in the First Amendment to the U.S. Constitution. Greater clarification as to how DHS and CBP approach such investigations will help the public understand your Department's level of commitment to those fundamental principles. We look forward to your prompt reply.

Sincerely,



Cory Gardner
U.S. Senator



Mike Lee
U.S. Senator

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 2:22 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Question on CBP response to Senators Gardner and Lee

Hahahaha. Can't say OCA isn't trying to be responsive...

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 3:21 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Question on CBP response to Senators Gardner and Lee

I just called him too ☺ He said he would call us back

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 3:20 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Question on CBP response to Senators Gardner and Lee

(b) (6), (b) (7)(C) I just called him. He had someone in his office and he said he would call me back in 5 mins. Do you want me to direct him to you? Or handle?

V/r,

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 3:18 PM
To: (b) (6), (b) (7)(C)
Subject: RE: Question on CBP response to Senators Gardner and Lee

(b) (6), (b) (7)(C)

I can call (b) (6), (b) (7)(C)

Thanks

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 20, 2017 3:13 PM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: RE: Question on CBP response to Senators Gardner and Lee

Sir – I'll give you a call momentarily.

V/r,

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Thursday, April 20, 2017 2:18 PM

To: (b) (6), (b) (7)(C)

Subject: Question on CBP response to Senators Gardner and Lee

Importance: High

(b) (6), (b) (7)(C)

I just spoke with (b) (6), (b) (7)(C) who pointed me in your direction. I have a question about the attached letter/response to Senators Gardner and Lee regarding CBP request for information from private companies. The letter references Twitter and the “@ALT_USCIS” account, but asks specifically for information about various practices/policies (not about information regarding that specific incident).

The response is sitting with PLCY for clearance, but I’m concerned it’s not directly responsive, which will lead to additional inquiries. Do either of you have time for a quick call this afternoon or tomorrow?

Thanks,

(b) (6), (b) (7)(C)

Acting Chief of Staff, Office of Policy
Department of Homeland Security

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

From: KARISCH, RODOLFO
Sent: Friday, April 07, 2017 2:06 PM
To: FUNN, ERICK K (OPR)
Cc: (b) (6), (b) (7)(C)
Subject: RE: Statement

I like it and will forward to (b) (6), (b) (7)(C)

Thanks,

Rudy

From: FUNN, ERICK K (OPR)
Sent: Friday, April 7, 2017 3:03 PM
To: KARISCH, RODOLFO (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Sir

(b) (6), (b) (7)(C) and I propose the below. Please feel free to include or ignore our recommendations and you deem appropriate.

Erick

<BEGIN>

(b) (5)

From: (b) (6), (b) (7)(C)

Sent: Friday, April 7, 2017 1:38 PM

To: (b) (6), (b) (7)(C)

COUREY, MARC BENNETT (OCC)

(b) (6), (b) (7)(C)

KARISCH, RODOLFO (b) (6), (b) (7)(C)

Subject: Statement

This gets us started. Appreciate any and all input.

(b) (6), (b) (7)(C)

Working Draft Statement

(b) (5)

(b) (6), (b) (7)(C)

From: FUNN, ERICK K (OPR)
Sent: Friday, April 07, 2017 2:15 PM
To: KARISCH, RODOLFO
Subject: RE: Statement

Sir,

Saw one typo after sending. Moving too quickly.

Erick

(b) (5)

From: (b) (6), (b) (7)(C)

Sent: Friday, April 7, 2017 1:38 PM

To: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) COUREY, MARC BENNETT (OCC)

(b) (6), (b) (7)(C) KARISCH, RODOLFO (b) (6), (b) (7)(C)

Subject: Statement

This gets us started. Appreciate any and all input.

(b) (6), (b) (7)(C)

(b) (5)

(b) (5)



(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Tuesday, April 18, 2017 9:49 AM
To: (b) (6), (b) (7)(C)
Subject: FW: Signed Sen. Wyden letter and new incoming letter
Attachments: C1 Signed Response to RM Wyden.pdf; Incoming WF Gardner 04.07.17.pdf

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel
(Enforcement & Operations)
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)
Sent: Tuesday, April 18, 2017 10:48 AM
To: (b) (6), (b) (7)(C)
Subject: FW: Signed Sen. Wyden letter and new incoming letter

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel (Enforcement and Operations)
Office of Chief Counsel
U.S. Customs and Border Protection

Desk: (b) (6), (b) (7)(C)

Mobile: (b) (6), (b) (7)(C)

Unclassified Email: (b) (6), (b) (7)(C)

JWICS: (b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)
Sent: Wednesday, April 12, 2017 5:04 PM
To: KARISCH, RODOLFO (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Cc:

(b) (6), (b) (7)(C)

Subject: Signed Sen. Wyden letter and new incoming letter

OPR and OCC,

Attached is the signed letter to Senator Wyden on this issue, which (b) (6), (b) (7)(C) is transmitting to the Hill presently.

Also attached is the new incoming letter from Senator Gardner and Senator Lee. We've also had phone calls (not a letter) from Senator McCaskill's office requesting information similar to "what Sen. Gardner and Sen. Lee's letter asked for."

OCA will verbally reach out to staffers on the limited communication we can have on this topic (while you all work official response letter), once we get confirmed guidance from the front office.

V/r

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Office of Congressional Affairs

U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)



**U.S. Customs and
Border Protection**

Commissioner

APR 11 2017

The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

Dear Ranking Member Wyden:

This is in response to your April 7, 2017 correspondence regarding the summons U.S. Customs and Border Protection (CBP) issued to Twitter, Inc. on March 14, 2017. My staff reached out to your office on April 7, 2017, to provide information regarding the summons, and I had the opportunity to speak with your Trade Counsel, (b) (6), (b) (7)(C)

The investigation which prompted the issuance of the summons was initiated by CBP's Office of Professional Responsibility's (OPR) Cyber Investigations group, in conjunction with CBP's Special Agent in Charge, Miami, FL, and with assistance from the Department of Homeland Security's (DHS) Office of Inspector General (OIG) Cyber. It was focused on potential internal misconduct which is OPR's mandate. On April 7, 2017, DHS-OIG assumed full investigative jurisdiction over this investigation. On Friday, April 7, 2017, CBP withdrew the summons and as a result, Twitter voluntarily dismissed all claims, resolving the litigation.

Thank you again for your interest in this important matter. We stand ready to brief and discuss this issue further at your convenience.

Sincerely,

(b) (6), (b) (7)(C)

Kevin K. McAleenan
Acting Commissioner

United States Senate
WASHINGTON, DC 20510

SCANNED/RECEIVED
BY ESEC SEC

2017 APR -7 PM 4:49

April 7, 2017

The Honorable John F. Kelly
Secretary of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, D.C. 20528

Dear Secretary Kelly:

We are writing to request clarification about U.S. Customs and Border Protection's (CBP's) internal protocols for ordering that private companies divulge their customers' names, addresses, account holder details, or any other personally identifiable information.

Recent news reports allege that a Special Agent in Charge at CBP ordered Twitter to reveal the identity of a Twitter user who operates a parody account called @ALT_USCIS. That Twitter user frequently criticizes the government's policies, specifically those policies in place at DHS and CBP. In order to better understand how and why CBP requests such information, please answer the following questions:

1. Under what statutory authority may CBP pursue agency investigations of private companies, their customers, or individuals? If DHS believes such CBP investigations may rely on multiple provisions of law, please list all that apply.
2. How many requests has CBP made of private companies for their customers' personally identifiable information or any other information that might otherwise lead CBP to the identity of any of those companies' customers?
3. Is there any official established policy at DHS or CBP that provides guidance to officials within CBP on when and whether such requests should be made? If so, please provide a reference to that specific policy and if not, please indicate how such decisions are made.
4. Prior to requesting that private companies divulge their customers' personally identifiable information or other details about their customers, does CBP pursue any other courses of action to attempt to complete their investigation without making such a request? If so, please detail what courses of action CBP typically takes prior to making such a request.
5. Is there any circumstance in which CBP would consider non-criminal speech a sole factor in whether to request that a private company divulge any of their customers' personally identifiable information or any other information that might otherwise lead CBP to the identity of any of those customers?

6. Are there instances outside of an official criminal or civil investigation in which CBP would request that a private company provide a customer's personally identifiable information or any other information that might otherwise lead CBP to the identity of that customer? If so, please provide examples of such instances.
7. Do DHS and CBP believe that an appropriate court order should be sought prior to requesting that a private company unmask the identity of one of their customers?

CBP must ensure that any properly authorized investigation does not disregard the rights to free speech enshrined in the First Amendment to the U.S. Constitution. Greater clarification as to how DHS and CBP approach such investigations will help the public understand your Department's level of commitment to those fundamental principles. We look forward to your prompt reply.

Sincerely,



Cory Gardner
U.S. Senator



Mike Lee
U.S. Senator

(b) (6), (b) (7)(C)

From: FUNN, ERICK K (OPR)
Sent: Monday, April 10, 2017 9:00 AM
To: (b) (6), (b) (7)(C)
Cc:
Subject: RE: Letter to the Honorable Ron Wyden

Hi (b) (6), (b) (7)(C)

Looks great. Thank you for your efforts.

Erick

From: (b) (6), (b) (7)(C)
Sent: Monday, April 10, 2017 9:45:31 AM
To: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)
Subject: RE: Letter to the Honorable Ron Wyden

(b) (6), (b) (7)(C), (b) (5)

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel (Enforcement and Operations)
Office of Chief Counsel
U.S. Customs and Border Protection
Desk: (b) (6), (b) (7)(C)
Mobile: (b) (6), (b) (7)(C)
Unclassified Email: (b) (6), (b) (7)(C)
JWICS (b) (6), (b) (7)(C)

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From: FUNN, ERICK K (OPR)
Sent: Monday, April 10, 2017 8:58 AM

(b) (6), (b) (7)(C)

Subject: Letter to the Honorable Ron Wyden
Importance: High

(b) (6), (b) (7)(C)

A few edits from the version I sent last night.

Erick

(b) (5)

Sincerely,

Kevin K. McAleenan
Acting Commissioner

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 13, 2017 8:59 AM
To: (b) (6), (b) (7)(C)
Subject: OAS Fox report
Attachments: CBP_dump1_50.pdf; Twitter Screen Captures.docx; TWITTER Cyber Investigations Report.docx

(b) (6), (b) (7)(C)

See attached.

Best Regards,

(b) (6), (b) (7)(C)

Assistant Special Agent in Charge

(b) (6), (b) (7)(C) Washington Office
Miami Office
Cellular
Miami Lab

(b) (6), (b) (7)(C)

U.S. Customs & Border Protection
Office of Professional Responsibility

(b) (7)(E)

(b) (6), (b) (7)(C)

Washington, D.C.

[REDACTED]

Subject: TRUMP TRUMP TRUMP TRUMP

Date: [REDACTED]

From: [REDACTED]

To: [REDACTED]

TRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP
TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMP!!
MAGA



[REDACTED]

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date: [REDACTED]

From: [REDACTED]

To: [REDACTED]

MAGA mother fucker. Here we come. we gonna be great again!

[REDACTED]

TRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP
TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMP!!
MAGA

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date:

From:

To:

15000 more redneck bruh hunger games about to start

MAGA mother fucker. Here we come. we gonna be great again!

On

TRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP
TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMP!!
MAGA

[REDACTED]

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date: [REDACTED]

From: [REDACTED]

To: [REDACTED]

this is me January 21st looking for carlos

[REDACTED]

15000 more redneck bruh hunger games about to start

[REDACTED]

MAGA mother fucker. Here we come. we gonna be great again!

[REDACTED]

TRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP
TRUMP TRUMPTRUMP TRUMP TRUMP TRUMPTRUMP TRUMP TRUMP TRUMP!!
MAGA

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date:

From:

To:

TRUMP is gonna make us great again! everyone gets a new lifted F250, you get an F250, you get an F250, you get an F250

[REDACTED]

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date: [REDACTED]

From: [REDACTED]

To: [REDACTED]

[REDACTED] BPA CBPO

did you see Killarys face on tv just now? do you think she knows the army of TRUMP and GOD is
bout to be unleashed?

Fuck i wanna process and deport HUSSEIN OBAMER!

[REDACTED]

an F250, you get

Page 1 of 2

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date:

From:

To:

40 thousand rednecks strong. America dont know we are about to go after brown wetback take their
shit and ship the rats out in containers full of shit

GOD is

D, you get

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date:

From:

To:

Cleared in CASS. Do you think brandon judd will be secretary of state now?

take

GOD is

you

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date:

From:

To:

Judd will leave the union and get on that private contractor train building the wall and get rich.
sucking up to trump and rudy giuliani was no accident

1 of 2

[REDACTED]

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date: [REDACTED]

From: [REDACTED]

To: [REDACTED]

we in the wetback killing business and business will be boom'n. i wana go to their houses, deport them then go back [REDACTED] flat screen tv, you know they all have big ass tv's for the soccer shit. goal!!!!!!!!!!!!!!!!!!!!!!.

[REDACTED]

1 of 2

Subject: Re: TRUMP TRUMP TRUMP TRUMP

Date:

From:

To:

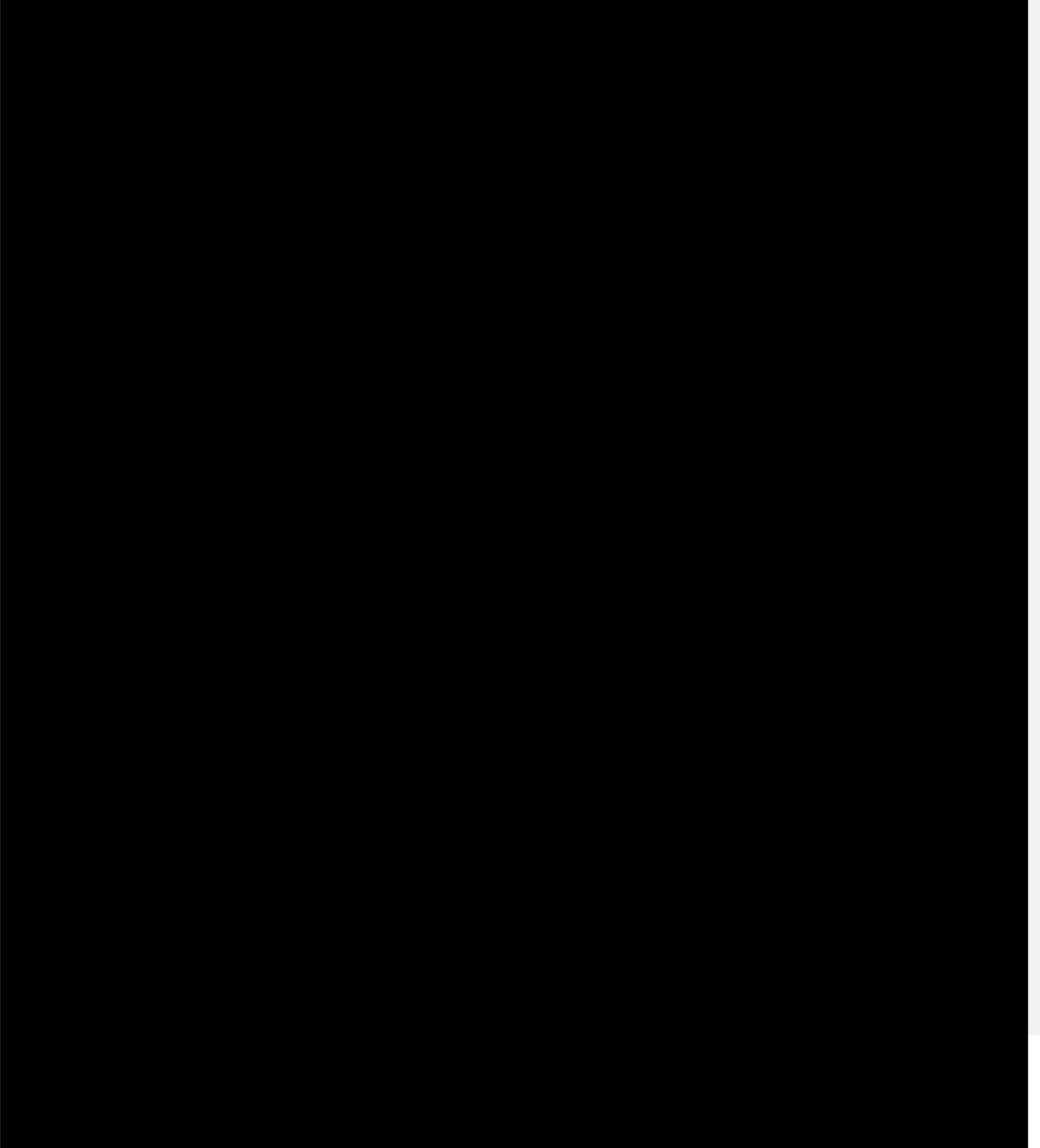
fuck u you know OFOs will be going back at night after to get (evidence)

port
cer

ch.

Page 1 of 2

(b) (5), (b) (7)(E)



(b) (5), (b) (7)(E)









(b) (5), (b) (7)(E)

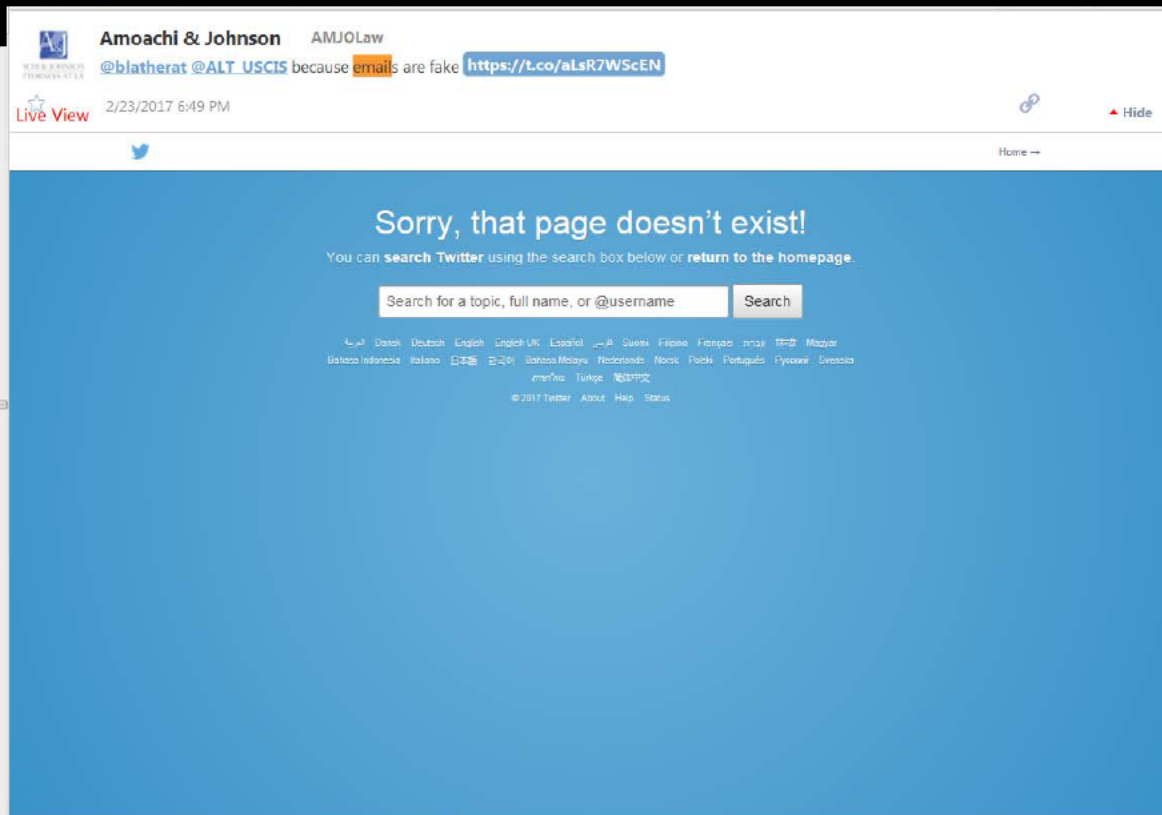


(b) (5)

(b) (7)(E)

(b) (7)(E)

-  **Mark Aldrich** Mark_S_Aldrich
"The Border Patrol Emails: An Update" by Mark Aldrich [@ALT_USCIS](https://t.co/JrLnYvyrJQ)
<https://t.co/qF9NLMehYL> <https://t.co/fEEbi5FAyV>
2/23/2017 7:28 PM
-  **Amoachi & Johnson** AMJOLaw
@blatherat @ALT_USCIS because emails are fake <https://t.co/aLsR7WScEN>
2/23/2017 6:49 PM
-  **Amoachi & Johnson** AMJOLaw
@ALT_USCIS @sartorialskwirl @mooneyc4 @ResistTheRedDon @docdroid_net these emails are bogus. Keep your day job. <https://t.co/7JR5wcPfyv>
2/23/2017 6:13 PM
-  **AltHomelandSecurity** AltHomelandSec cjab20
Give @ALT_USCIS a follow for some CBP email leaks today. #resist
2/23/2017 5:53 PM
-  **ALTU Immigration** ALT_USCIS
@sartorialskwirl @mooneyc4 @ResistTheRedDon @docdroid_net we posted the emails source code with gov part <https://t.co/qbJst2gA0A>
2/23/2017 5:41 PM
-  **ALTU Immigration** ALT_USCIS
Cant get away | Listen to controversial White House terrorism adviser Sebastian Gorka's angry call to a critic <https://t.co/Q031ET6Lf>
2/23/2017 5:37 PM



(b) (7)(E)

(b) (7)(E)

(b) (7)(E)

(b) (7)(E)

Mark Aldrich Mark_S_Aldrich
"The Border Patrol **Emails**: An Update" by Mark Aldrich @ALT_USCIS... <https://t.co/qKp3vSDIHU>
2/23/2017 7:28 PM

Mark Aldrich Mark_S_Aldrich
"The Border Patrol **Emails**: An Update" by Mark Aldrich <https://t.co/JrLnYvyrJQ> @ALT_USCIS <https://t.co/qF9NLMehYL> <https://t.co/fEEbi5FAyV>
2/23/2017 7:28 PM


Amoachi & Johnson AMJOLaw
@blatherat @ALT_USCIS because **emails** are fake <https://t.co/aLsR7WScEN>
2/23/2017 6:49 PM

Amoachi & Johnson AMJOLaw
@ALT_USCIS @sartorialskwirl @mooneyc4 @ResistTheRedDon @docdroid_net these **emails** are bogus. Keep your day job. <https://t.co/7JR5wcPfyv>
2/23/2017 6:13 PM

AltHomelandSecurity AltHomelandSec cjab20
Give @ALT_USCIS a follow for some CBP **email** leaks today. #resist
2/23/2017 5:53 PM

ALT Immigration ALT_USCIS
@sartorialskwirl @mooneyc4 @ResistTheRedDon @docdroid_net we posted the **emails** source code with gov part <https://t.co/qbJst2gA0A>
2/23/2017 5:41 PM

Mark Aldrich Mark_S_Aldrich
"The Border Patrol **Emails**: An Update" by Mark Aldrich @ALT_USCIS... <https://t.co/qKp3vSDIHU>
2/23/2017 7:28 PM



THE RESISTANCE

The Border Patrol **Emails**: An Update

5 Hours Ago by Mark Aldrich


Follow


(b) (7)(E)


(b) (7)(E)


(b) (7)(E)


(b) (7)(E)


 **Mark Aldrich** Mark_S_Aldrich
'The Border Patrol **Emails**: An Update' by Mark Aldrich @ALT_USCIS... <https://t.co/qKp3vSDIHU>
2/23/2017 7:28 PM


 **Mark Aldrich** Mark_S_Aldrich
'The Border Patrol **Emails**: An Update' by Mark Aldrich <https://t.co/JrlNvYyRJQ> @ALT_USCIS
<https://t.co/qF9NLMehYL> <https://t.co/fEEbi5FAyV>
2/23/2017 7:28 PM

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2/23/2017 6:49 PM

 **Amoachi & Johnson** AMJOLaw
@ALT_USCIS @sartorialskwirl @mooneyc4 @ResistTheRedDon @docdroid_net these **emails** are bogus. Keep your day job. <https://t.co/7JR5wcPljv>
2/23/2017 6:13 PM

 **AltHomelandSecurity** AltHomelandSec cjab20
Give @ALT_USCIS a follow for some CBP **email** leaks today. #resist
2/23/2017 5:53 PM

 **ALT Immigration** ALT_USCIS
@sartorialskwirl @mooneyc4 @ResistTheRedDon @docdroid_net we posted the **emails** source code with gov part <https://t.co/qbJst2gA0A>
2/23/2017 5:41 PM

 **Mark Aldrich** Mark_S_Aldrich
'The Border Patrol **Emails**: An Update' by Mark Aldrich @ALT_USCIS... <https://t.co/qKp3vSDIHU>
2/23/2017 7:28 PM

The writer or writers of the [ALT Immigration](#) Twitter account spent the day today reviewing the trove of documents that he or she started to publish this morning, documents purported to be from U.S. Border Patrol agents as they celebrated the U.S. Presidential Election results last November 8. A first batch was published on the Twitter account and this website published [an article](#).

The account holder(s) noticed something and discontinued the document dump this afternoon, at first without explanation. In a private communication, an explanation was sent to me this evening: "Although some **emails** we reviewed appeared to be legitimate with correct sourcing, we have doubts to the authenticity of much of the rest of the rhetoric." That statement is on-the-record.

Some of the **emails** may have been—or may not have been—tampered with to make the language appear incendiary. That possible tampering makes it difficult to separate the real opinions as truly reflected in the **emails** from the pranks, in both those **emails** published and those not yet seen, so, in a display of admirable prudence, the [ALT Immigration](#) Twitter account holders have chosen to cease using the source that supplied the **emails** from U.S. Border Patrol.

Even if the **emails** as published reveal actual opinions and actual thoughts from real agents, the fact that not every I can be dotted or T crossed led to the cessation of the document publication. The first batch remains on the Twitter account, and my article stands, with this update added.

(b) (7)(E)

(b) (7)(E)

(b) (7)(E)

(b) (7)(E)

Mark Aldrich Mark_S_Aldrich
"The Border Patrol **Emails**: An Update" by Mark Aldrich @ALT_USCIS... <https://t.co/qKp3vSDIHU>
2/23/2017 7:28 PM

Mark Aldrich Mark_S_Aldrich
"The Border Patrol **Emails**: An Update" by Mark Aldrich <https://t.co/JrLnYvyrJQ> @ALT_USCIS
<https://t.co/qF9NLMehYL> <https://t.co/TEEBi5FayV>
2/23/2017 7:28 PM

Amoachi & Johnson AMJOLaw
@blatherat @ALT_USCIS because **emails** are fake <https://t.co/aLsR7WScEN>
2/23/2017 6:49 PM

Amoachi & Johnson AMJOLaw
@ALT_USCIS @sartorialskwirl @mooneyc4 @ResistTheRedDon @docdroid_net these **emails** are bogus. Keep your day job. <https://t.co/7JR5wcPfvj>
2/23/2017 6:13 PM

AltHomelandSecurity AltHomelandSec cjab20
Give @ALT_USCIS a follow for some CBP **email** leaks today. #resist
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ALT Immigration ALT_USCIS
@sartorialskwirl @mooneyc4 @ResistTheRedDon @docdroid_net we posted the **emails** source code with gov part <https://t.co/qbJst2gA0A>
2/23/2017 5:41 PM

Mark Aldrich Mark_S_Aldrich
"The Border Patrol **Emails**: An Update" by Mark Aldrich @ALT_USCIS... <https://t.co/qKp3vSDIHU>
2/23/2017 7:28 PM

This bout of prudence leads me to trust the writer(s) of the ALT Immigration Twitter account more thoroughly. A note about that trust follows:

Earlier this week, when I wrote and published an article about proposed changes to the implementation of (actually, to the understanding of) Title IX leaked from the Department of Justice, the leak was published by the @ALT_USCIS account, which is not one associated with the Department of Justice.

I have been following the @ALT_USCIS account and trust it. That is why I published the article even though other journalists have not yet published anything about the possible proposed Title IX changes. (Some journalists asked the @ALT_USCIS account for sources behind the Title IX leak. They were openly rebuffed.)

No one inside (or outside) the Department of Justice has rejected, debunked, or denied either my article or the @ALT_USCIS Twitter account's publication of the leak about changes to Title IX. If and when it is debunked, I will publish that, too. If and when the @ALT_USCIS is proved to be a bad source, I will publish an article about that.

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Follow The Gad About Town on Instagram!


(b) (7)(E)


(b) (7)(E)


(b) (7)(E)


(b) (7)(E)


 **Tammy Guerrero** Faenauliel
Any way you loook at it SCPD looks idiotic AND incompetent! <https://t.co/jv0jVR5vdI>
@ALT_USCIS @scimc
2/23/2017 8:11 PM


 **ALT Immigration** ALT_USCIS
@AMJOLaw @Mark_S_Aldrich no we did not. We were shown screenshots, then we asked the emails to be forwarded not from a gov address. 1/2
2/23/2017 8:01 PM

 **Amoachi & Johnson** AMJOLaw
No, @Mark_S_Aldrich, the individual who created the false emails is person behind @ALT_USCIS handle. <https://t.co/jvNdnF9yA>
2/23/2017 8:00 PM

 **ALT Immigration** ALT_USCIS
The Border Patrol Emails: An Update <https://t.co/MxqhdXLjuM> via @Mark_S_Aldrich
2/23/2017 7:30 PM

 **Mark Aldrich** Mark_S_Aldrich
'The Border Patrol Emails: An Update' by Mark Aldrich @ALT_USCIS... <https://t.co/qKp3vSDIHU>
2/23/2017 7:28 PM

 **Mark Aldrich** Mark_S_Aldrich
'The Border Patrol Emails: An Update' by Mark Aldrich <https://t.co/JrLnYvyrJQ> @ALT_USCIS
<https://t.co/qF9NLMehYL> <https://t.co/fEEbiSFAYV>
2/23/2017 7:28 PM


 **ALT Immigration** ALT_USCIS
@AMJOLaw @Mark_S_Aldrich no we did not. We were shown screenshots, then we asked the emails to be forwarded not from a gov address. 1/2
2/23/2017 8:01 PM

(b) (7)(E)


(b) (7)(E)

(b) (7)(E)


(b) (7)(E)

 **ALT Immigration** ALT_USCIS
This app warns undocumented immigrants when raids are coming: <https://t.co/zzPTXMIq8c>
by @mistercharlie /


☆ 2/27/2017 9:12 AM

 **Debbie Nathan** DebbieNathan2
@ALT_USCIS @WNYC email me: naess2@gmail.com


2/27/2017 9:07 AM

 **Debbie Nathan** DebbieNathan2
@ALT_USCIS 8 pm EST tonight 2/27, NPR radio show INDIVISIBLE <https://t.co/aBohAI2vWM>
& call 844 845TALK to discuss deportation Anonymous OK


2/27/2017 9:03 AM

 **Katie** katie0873
@ALT_USCIS Closing in on 1 million signatures to impeach trump
<https://t.co/hcnfv4Gz36> (Please share)


2/27/2017 9:02 AM

 **Kim Truebenbach** ktbach94
<https://t.co/SHo1e1pDaF> @BadHombreNPS @ALT_USCIS @AltStateDpt any truth to this
claim? If so where do we go with Trump Russia investigation

2/27/2017 8:59 AM

 **Lou Fiorentino** louis2nd FersharX
@ALT_USCIS <https://t.co/R4u3ks4Lq>

2/27/2017 2:51 AM

 **Debbie Nathan** DebbieNathan2
@ALT_USCIS @WNYC email me: naess2@gmail.com

☆ 2/27/2017 9:07 AM

Hide

(b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 2:37 PM
To: (b) (6), (b) (7)(C)
Subject: RE: @alt_USCIS twitter feed releasing CBP documents (b) (5)
(b) (5)

Thanks so much (b) (6), (b) (7)(C) should be reaching out to you.

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 3:35 PM
To: (b) (6), (b) (7)(C)
Subject: RE: @alt_USCIS twitter feed releasing CBP documents (b) (5)

(b) (5), (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Senior Attorney (Enforcement & Operations)/EPC
Office of Chief Counsel
U.S. Customs and Border Protection
(b) (6), (b) (7)(C)
Washington, D.C. 20229
(b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 2:56 PM
To: (b) (6), (b) (7)(C)
Subject: RE: @alt_USCIS twitter feed releasing CBP documents (b) (5)

Hey (b) (6), (b) (7)(C)

Can you give me a call when you get a second. (b) (5)

Best Regards,

(b) (6), (b) (7)(C)
Assistant Special Agent in Charge

(b) (6), (b) (7)(C)
Washington Office
Miami Office
Cellular

(b) (6), (b) (7)(C) Miami Lab

(b) (6), (b) (7)(C)

U.S. Customs & Border Protection
Office of Professional Responsibility

(b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Thursday, February 23, 2017 2:20 PM

To: JOINT INTAKE (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Subject: @alt_USCIS twitter feed releasing CBP documents (b) (5)

(b) (5)

(b) (6), (b) (7)(C)

Senior Attorney (Enforcement & Operations)/EPC
Office of Chief Counsel

U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

Washington, D.C. 20229

(b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 2:37 PM
To: (b) (6), (b) (7)(C)
Subject: FW: @alt_USCIS twitter feed releasing CBP documents (b) (5)
(b) (5)

FYSA

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 3:35 PM
To: (b) (6), (b) (7)(C)
Subject: RE: @alt_USCIS twitter feed releasing CBP documents (b) (5)

(b) (5), (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Senior Attorney (Enforcement & Operations)/EPC
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U.S. Customs and Border Protection
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Washington, D.C. 20229

(b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 2:56 PM
To: (b) (6), (b) (7)(C)
Subject: RE: @alt_USCIS twitter feed releasing CBP documents (b) (5)

Hey (b) (6), (b) (7)(C)

Can you give me a call when you get a second. (b) (5)

Best Regards,

(b) (6), (b) (7)(C)

Assistant Special Agent in Charge

(b) (6), (b) (7)(C)

Washington Office
Miami Office
Cellular

(b) (6), (b) (7)(C)

Miami Lab

(b) (6), (b) (7)(C)

U.S. Customs & Border Protection
Office of Professional Responsibility

(b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Thursday, February 23, 2017 2:20 PM

To: JOINT INTAKE <(b) (6), (b) (7)(C)>

(b) (6), (b) (7)(C)

Subject: @alt_USCIS twitter feed releasing CBP documents (b) (5)

(b) (5)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Senior Attorney (Enforcement & Operations)/EPC
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

Washington, D.C. 20229

(b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 2:36 PM
To: (b) (6), (b) (7)(C)
Subject: RE: @alt_USCIS twitter feed releasing CBP documents (b) (5)
(b) (5)

(b) (6), (b) (7)(C) should be calling you shortly.

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C) (OCC)
Sent: Thursday, February 23, 2017 3:30 PM
To: (b) (6), (b) (7)(C)
Subject: RE: @alt_USCIS twitter feed releasing CBP documents (b) (5)

(b) (5), (b) (6), (b) (7)(C)

(b) (5)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Senior Attorney (Enforcement & Operations)/EPC
Office of Chief Counsel
U.S. Customs and Border Protection
(b) (6), (b) (7)(C)
Washington, D.C. 20229

(b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 2:56 PM
To: (b) (6), (b) (7)(C)
Subject: RE: @alt_USCIS twitter feed releasing CBP documents (b) (5)

Hey (b) (6), (b) (7)(C)

Can you give me a call when you get a second (b) (5)

Best Regards,

(b) (6), (b) (7)(C)

Assistant Special Agent in Charge

(b) (6), (b) (7)(C)

Washington Office
Miami Office
Cellular
Miami Lab

(b) (6), (b) (7)(C)

U.S. Customs & Border Protection
Office of Professional Responsibility

(b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Thursday, February 23, 2017 2:20 PM

To: JOINT INTAKE (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

Subject: @alt_USCIS twitter feed releasing CBP documents (b) (5)

(b) (5)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Senior Attorney (Enforcement & Operations)/EPC
Office of Chief Counsel

U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

Washington, D.C. 20229

(b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 2:36 PM
To: (b) (6), (b) (7)(C)
Subject: FW: @alt_USCIS twitter feed releasing CBP documents (b) (5)
(b) (5)

FYSA

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 3:30 PM
To: (b) (6), (b) (7)(C)
Subject: RE: @alt_USCIS twitter feed releasing CBP documents (b) (5)

(b) (5), (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Senior Attorney (Enforcement & Operations)/EPC
Office of Chief Counsel
U.S. Customs and Border Protection
(b) (6), (b) (7)(C)
Washington, D.C. 20229

(b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)
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To: (b) (6), (b) (7)(C)
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Best Regards,

(b) (6), (b) (7)(C)

Assistant Special Agent in Charge

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Washington Office

Miami Office

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(b) (6), (b) (7)(C)

U.S. Customs & Border Protection

Office of Professional Responsibility

(b) (7)(E)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Thursday, February 23, 2017 2:20 PM

To: JOINT INTAKE (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Subject: @alt_USCIS twitter feed releasing CBP documents (b) (5)

(b) (5)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Senior Attorney (Enforcement & Operations)/EPC

Office of Chief Counsel

U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

Washington, D.C. 20229

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(b) (6), (b) (7)(C)

From: JOINT INTAKE
Sent: Thursday, February 23, 2017 1:20 PM
To: (b) (6), (b) (7)(C)
Subject: FW: @alt_USCIS twitter feed releasing CBP documents (b) (5)
(b) (5)

From: (b) (6), (b) (7)(C)
Sent: Thursday, February 23, 2017 2:19:58 PM (UTC-05:00) Eastern Time (US & Canada)
To: JOINT INTAKE
Cc: (b) (6), (b) (7)(C)
Subject: @alt_USCIS twitter feed releasing CBP documents (b) (5)

(b) (5)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Senior Attorney (Enforcement & Operations)/EPC
Office of Chief Counsel

(b) (6), (b) (7)(C)

Washington, D.C. 20229

(b) (6), (b) (7)(C)

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(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 9:00 AM
To: (b) (6), (b) (7)(C)
Cc:
Subject: FW: Twitter case

(b) (6), (b) (7)(C)

A review of my files shows that we received the screen shots on 03/03 that show the emails were possibly bogus. However, I was asked to see if we could determine if there were any CBP employees named within the twitter feeds for @ALT_USCIS. I was on leave on the 13th through the 20th and returned on the 21st.

From: (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 8:57 AM
To: (b) (6), (b) (7)(C)
Subject: Twitter case

Hi

I have some questions, are you available to talk. On a deadline

(b) (6), (b) (7)(C)

From:

(b) (6), (b) (7)(C)

Sent:

Thursday, April 06, 2017 3:33 PM

To:

(b) (6), (b) (7)(C)

Cc:

Subject:

FW: Twitter v. DHS

Attachments:

show_multidocs.pl.pdf

(b) (6), (b) (7)(C)

The complaint is attached. Please let me know whether you'd like me to forward to LA or SF.

Thank you

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Attorney (Ethics, Labor and Employment)

Office of Chief Counsel

U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

Washington, D.C. 20229

Work: (b) (6), (b) (7)(C)

Cell: (b) (6), (b) (7)(C)

Fax: (b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)

Sent: Thursday, April 06, 2017 4:28 PM

To: (b) (6), (b) (7)(C)

Cc:

Subject: Twitter v. DHS

(b) (6), (b) (7)(C)

Thank you for your call just now regarding the CBP Summons addressed to Twitter. Here is a copy of the complaint that we filed on behalf of Twitter earlier this afternoon in federal court in San Francisco.

Regards,

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) WilmerHale

(b) (6), (b) (7)(C)

Washington, DC 20006 USA

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

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patrick.carome@wilmerhale.com
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Facsimile: (650) 858-6100

Attorneys for Plaintiff
TWITTER, INC.

8 **UNITED STATES DISTRICT COURT**
9 **NORTHERN DISTRICT OF CALIFORNIA**

10 TWITTER, INC.,

11 Plaintiff,

12 v.

13 U.S. DEPARTMENT OF HOMELAND
14 SECURITY; U.S. CUSTOMS AND
BORDER PROTECTION; JOHN F. KELLY,
15 in his official capacity as Secretary of
Homeland Security; KEVIN K.
16 MCALEENAN, in his official capacity as
Acting Commissioner, U.S. Customs and
17 Border Protection; STEPHEN P. CARUSO,
18 in his official capacity as Special Agent In
Charge, U.S. Customs and Border Protection;
19 and ADAM HOFFMAN, in his official
capacity as Special Agent, U.S. Customs and
20 Border Protection,

21 Defendants.

Case No. _____

22 **COMPLAINT**

23 Plaintiff Twitter, Inc. ("Twitter"), by and through its attorneys, hereby alleges:

24 **INTRODUCTION**

25 1. This is an action to prevent the U.S. Department of Homeland Security ("DHS"),
26 U.S. Customs and Border Protection ("CBP"), and the individual Defendants from unlawfully
27 abusing a limited-purpose investigatory tool to try to unmask the real identity of one or more
28 persons who have been using Twitter's social media platform, and specifically a Twitter account

1 named @ALT_USCIS, to express public criticism of the Department and the current
2 Administration. The rights of free speech afforded Twitter's users and Twitter itself under the
3 First Amendment of the U.S. Constitution include a right to disseminate such anonymous or
4 pseudonymous political speech. In these circumstances, Defendants may not compel Twitter to
5 disclose information regarding the real identities of these users without first demonstrating that
6 some criminal or civil offense has been committed, that unmasking the users' identity is the least
7 restrictive means for investigating that offense, that the demand for this information is not
8 motivated by a desire to suppress free speech, and that the interests of pursuing that investigation
9 outweigh the important First Amendment rights of Twitter and its users. But Defendants have
10 not come close to making any of those showings. And even if Defendants could otherwise
11 demonstrate an appropriate basis for impairing the First Amendment interests of Twitter and its
12 users, they certainly may not do so using the particular investigatory tool employed here—which
13 Congress authorized solely to ensure compliance with federal laws concerning imported
14 merchandise—because it is apparent that whatever investigation Defendants are conducting here
15 does not pertain to imported merchandise.

16 2. In the days and weeks following the inauguration of President Donald J. Trump, a
17 new and innovative class of American speakers emerged on Twitter's ubiquitous online
18 platform: speakers who purport to be current or former employees of federal agencies, or others
19 with special insights about the agencies, who provide views and commentary that is often
20 vigorously opposed, resistant, or "alternative" to the official actions and policies of the new
21 Administration. Typically, these so-called "alternative agency" accounts are named and self-
22 described by their users in a manner that both (a) identifies the particular federal agency that the
23 user seeks primarily to criticize and with which the user purports to have significant knowledge,
24 and (b) proclaims that the user is not an official voice or spokesperson for the agency. Examples
25 of these accounts include @alt_labor, which purports to provide informed but unofficial
26 commentary on the U.S. Department Labor, and @blm_alt, which does the same for the federal
27 Bureau of Land Management. Dozens of such accounts have sprung up, and many of them are
28 actively used to disseminate criticism of the Administration and its policies. Many of these

1 accounts have attracted large audiences of other Twitter users (“followers”), often numbering in
2 the tens of thousands or more.

3 3. Like many Twitter users, those who speak through these “alternative agency”
4 accounts do so pseudonymously, often going to considerable lengths to avoid disclosing their
5 real identities. The motivations these users have for preserving their anonymity presumably
6 include a desire to speak freely and without the fear of negative consequences that may flow
7 from being identified as the source of controversial views and commentary concerning the
8 Administration and its agencies. Such fears are likely to be especially great for users of
9 “alternative agency” accounts who are currently employed by the very agency that is a principal
10 target of the commentary, in light of the retaliation, harassment, or even loss of livelihood that
11 might occur if their real identities became known to their superiors.

12 4. One such “alternative agency” account is @ALT_USCIS. Like other accounts of
13 this sort, @ALT_USCIS claims to be run by one or more current government employees—in this
14 case, employees of the United States Citizenship and Immigration Services (“USCIS”), a unit
15 within the Defendant DHS. And as with other such accounts, the person or persons who
16 established and speak through @ALT_USCIS have identified themselves only by means of this
17 pseudonymous account name. To the best of Twitter’s knowledge, they have not disclosed their
18 real identities in any of their public communications through this account.

19 5. In the just over two months since it was created, @ALT_USCIS has frequently
20 criticized the immigration policies of the new Administration, highlighted what the user views as
21 a history of waste and mismanagement within USCIS and DHS, and publicized facts that the
22 account’s users portray as casting doubt on Administration policies.

23 6. The Defendants are now threatening the anonymity of the person(s) speaking
24 through the @ALT_USCIS account. Specifically, on March 14, 2017, they issued and delivered
25 to Twitter an administrative summons (the “CBP Summons”) demanding that Twitter provide
26 them records that would unmask, or likely lead to unmasking, the identity of the person(s)
27 responsible for the @ALT_USCIS account. The summons was issued by a Special Agent in
28

1 Charge within U.S. Customs and Border Protection, another unit of DHS. The CBP Summons is
2 unlawful and must be enjoined for two reasons.

3 7. *First*, the sole statutory authority CBP invoked in issuing the summons—19
4 U.S.C. § 1509—authorizes the agency to compel production of only a narrow class of records
5 relating to the importation of merchandise. But CBP’s investigation of the @ALT_USCIS
6 account plainly has nothing whatsoever to do with the importation of merchandise into the
7 United States. Section 1509 thus provides CBP no power to compel Twitter to reveal
8 information pertaining to the identity of the individual(s) behind the @ALT_USCIS account.

9 8. *Second*, permitting CBP to pierce the pseudonym of the @ALT_USCIS account
10 would have a grave chilling effect on the speech of that account in particular and on the many
11 other “alternative agency” accounts that have been created to voice dissent to government
12 policies. The Supreme Court has long recognized the extraordinary value of the kind of speech
13 emanating from these accounts—pure political speech criticizing government policies and
14 highlighting government waste and mismanagement. And the Court has likewise recognized that
15 anonymity is often essential to fostering such political speech where, as here, the speaker could
16 face retaliation or retribution if his or her real identity were linked to the speech. In this context,
17 the CBP Summons must be declared unlawful and enjoined absent an evidentiary showing by
18 Defendants that some criminal or civil offense has been committed, that unmasking the users’
19 identity is the least restrictive means for investigating that offense, that the demand for this
20 information is not motivated by a desire to suppress free speech, and that the interests of
21 pursuing that investigation outweigh the important free speech rights of Twitter and its users.
22 Defendants have not even attempted to meet that burden.

23 9. For these and other reasons discussed below, Twitter respectfully requests that
24 this Court declare the summons unlawful and enjoin its enforcement.

25 **JURISDICTION AND VENUE**

26 10. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises
27 under the First Amendment to the U.S. Constitution, the Administrative Procedure Act (“APA”),
28 the Tariff Act of 1930, as amended, and other Federal statutes.

FACTUAL BACKGROUND

The Emergence And Popularity Of “Alternative Agency” Accounts On The Twitter Platform

20. President Donald J. Trump was inaugurated on January 20, 2017. That day the official Twitter account of the National Park Service retweeted an image comparing the crowd size at President Trump’s inauguration to the apparently larger crowd size at President Obama’s 2009 inauguration.

21. As the public began to remark on the agency’s retweet, the National Park Service abruptly shut down its own account and sent an internal email to agency employees explaining that “[a]ll bureaus and the department have been directed by [the] incoming administration to shut down Twitter platforms immediately until further notice.” And President Trump called the acting director of the National Park Service to complain about the agency retweeting an unflattering comparison of his inaugural crowd size. The day after the inauguration, the Park Service reactivated its official account and Tweeted an apology for “the mistaken [retweets] from our account yesterday.”¹

22. Four days after the inauguration, on January 24, 2017, the official Twitter account for Badlands National Park began to Tweet a series of statements about climate change from the @BadlandsNPS account.



¹ Lisa Rein, *Interior Department Reactivates Twitter Accounts After Shutdown Following Inauguration*, WASH. POST (Jan. 21, 2017), https://www.washingtonpost.com/news/powerpost/wp/2017/01/20/interior-department-banned-from-twitter-after-retweet-of-smaller-than-usual-trump-inauguration-crowd/?utm_term=.4e6d99996772.

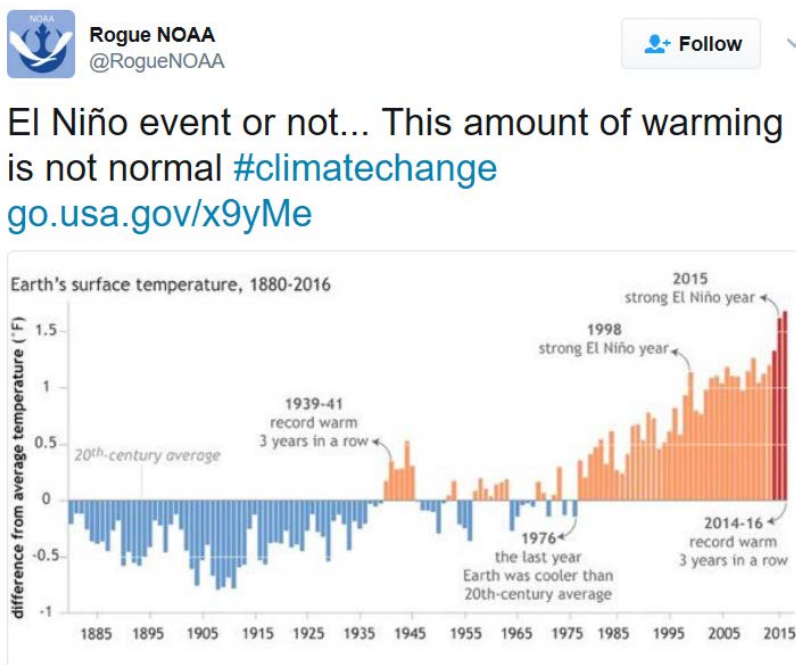
1 23. Press reports described the @BadlandsNPS account as having gone “rogue,” and
2 the National Park Service explained that a former employee who still had access to the
3 @BadlandsNPS account had been responsible for the Tweets. The Park Service quickly
4 removed the unauthorized Tweets and blocked the former employee’s access.

5 24. Shortly thereafter, a new wave of Twitter accounts began to appear on the
6 Twitter platform: self-identified as expressing “alternative” ideas, views, and information about
7 a particular federal agency. Although seemingly inspired by the National Park Service’s
8 inauguration day Tweet or by the short-lived takeover of the @BadlandsNPS account, these new
9 alternative agency accounts were not “official” accounts of any government agency. Instead,
10 they operated under names such as @blm_alt, @alt_labor, and @RogueEPastaff. Within
11 weeks, dozens of such accounts had been created, many attracting tens of thousands of followers
12 or more. In some cases, multiple alternative agency accounts appeared for a single agency.

13 25. While some of these alternative agency accounts appear to be run by former
14 federal employees or activists with no connection to the government, many of the accounts
15 claim, through their user-created account descriptions or the content of their Tweets, to be
16 administered by individuals who are currently employed by the federal agency after which the
17 account is named.

18 26. These self-designated alternative agency accounts have tended to challenge views
19 of the Administration and its policies, often (but not always) focusing on the policies of the
20 particular agency for which the account was named. The styles of expression emanating from
21 these accounts vary greatly.
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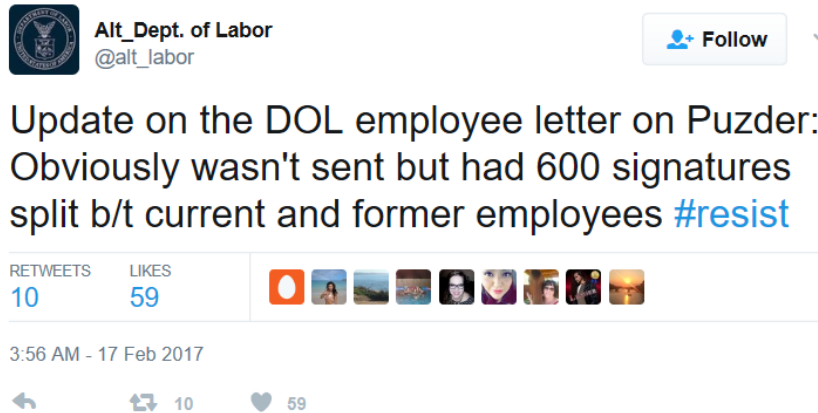
27. Some accounts appear to equate the simple act of broadcasting facts as an expression of dissent.



28. The accounts often have expressed disagreement with specific policies of the official agency.



29. One of the many Tweets from the @alt_labor account publicized a letter signed by 600 current and former Labor Department employees opposing the confirmation of the President's nominee for Labor Secretary, Andrew Puzder.



30. Like many online platforms, Twitter's platform offers users the choice between speaking in a self-identifying manner (for example, by selecting a user name that matches or is similar to the user's real name) or pseudonymously (through an account that has a user name and user description that do not disclose the speaker's real identity).

31. Pseudonymity of the speaker(s) is a defining feature of the alternative agency accounts that have recently emerged on the Twitter platform. While the persons who establish and use these accounts sometimes provide highly general descriptions of themselves (for example, by stating in the account's biography that the user or users work or previously worked for a particular agency), they typically refrain from revealing their real names. The users appear to view and depend on preservation of their anonymity as crucial to their ability to express information and ideas that are contrary to the policies and objectives of the Administration and its agencies. Preserving anonymity appears to be especially important for users of these alternative agency accounts who are current federal employees, given the risk that such users could face retaliation, sanctions, or other negative repercussions from their federal employer if they were identified as the source of criticism of their agency.²

² Alleen Brown, *Rogue Twitter Accounts Fight To Preserve The Voice Of Government Science*, THE INTERCEPT (Mar. 11, 2017), <https://theintercept.com/2017/03/11/rogue-twitter-accounts-fight-to-preserve-the-voice-of-government-science> (reporting that several "alternative agency" accounts are administered by current agency employees and that those employees wish to

The @ALT USCIS Twitter Account

32. This case concerns one particular alternative agency account that, like many others, was created in late January 2017: @ALT_USCIS.

33. As of the time Twitter received the CBP Summons, the public, user-provided description of the @ALT_USCIS account described its user or users as “[o]fficial inside resistance.” As of then and now, the account description prominently declares that the account is “[n]ot [expressing] the views of DHS or USCIS.” The account’s profile image plays off USCIS’s official logo (displayed side-by-side below), further indicating a correspondence or relationship to the agency, albeit one that is unofficial, ideologically or politically averse, and/or “rogue.”³ Tweets from this account use hashtags such as “#altgov,” expressly self-identifying as part of the broader alternative agency movement.



34. On several occasions, Tweets from the @ALT_USCIS account have claimed that the person speaking through the account is a current federal employee of the United States Citizenship and Immigration Services (USCIS), an entity that reportedly has 19,000 employees and contractors. But beyond purporting to identify his or her employer, the person(s) using the account have chosen to remain pseudonymous.

35. In two months of existence, the @ALT_USCIS account has attracted over 32,000 followers and has issued thousands of Tweets.

preserve their anonymity “out of fear of workplace retaliation and pressure to shut down their accounts”).

³ The accountholder reworked the account’s description and profile image at some point after Twitter received the CBP Summons. The profile image displayed above is as it was when the summons was received.

36. The @ALT_USCIS account has expressed dissent in a range of different ways. One of the account's first Tweets asserted a fact about illegal immigration in the United States that the author apparently believed cast doubt on the Administration's immigration policy.

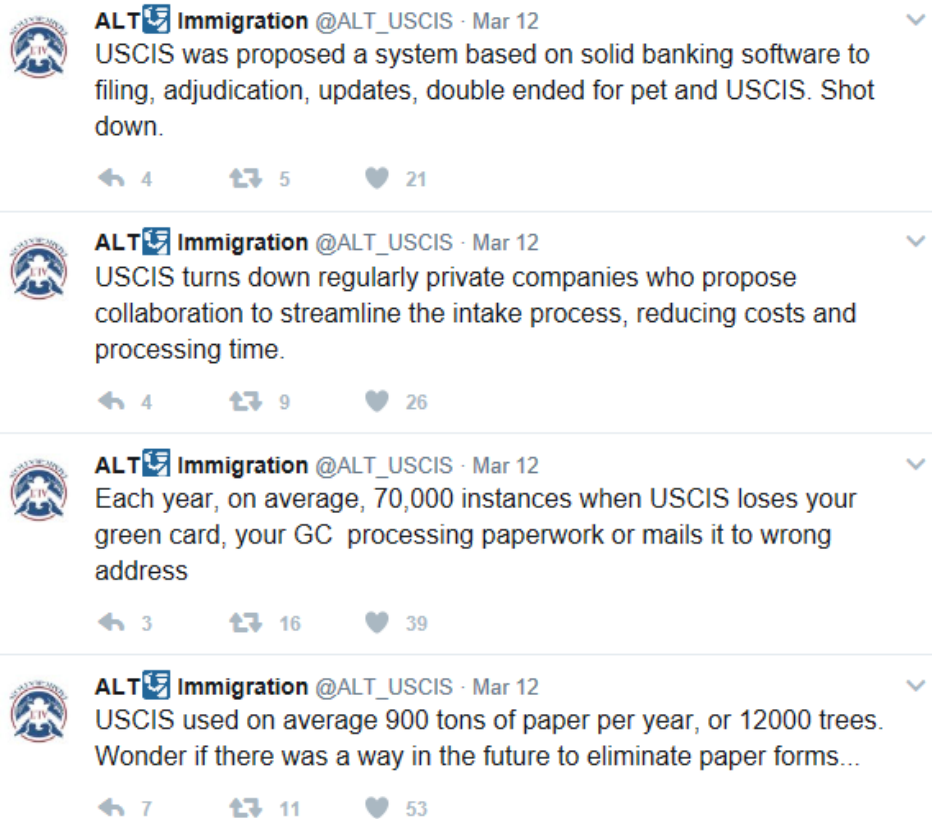


37. The @ALT_USCIS account has often criticized immigration policies with which the speaker apparently disagrees. The account was created on nearly the same day that the President issued his original immigration Executive Order. Tweets from the account have repeatedly criticized the Order—often referring to it as the “#MuslimBan.” Other Tweets have taken aim at the President's proposal to build a wall along the U.S.-Mexico border. For example, on March 11, 2017, the account used news that a fence-jumper had trespassed onto the White House grounds to argue that the Administration's proposed border fence will be ineffective.



38. Tweets from the @ALT_USCIS account have also purported to shine a light on historical and recent mismanagement at USCIS. For example, on March 12—two days before issuance of the CBP Summons challenged in this suit—a series of Tweets from the account

1 decried what the author described as waste, inefficiency, and poor management in the agency's
 2 attempts to set up a new automated system for processing immigration applications.



16 39. The account has regularly leveled criticism at U.S. Customs and Border
 17 Protection—the agency that issued the summons challenged by this lawsuit.



40. The account has also frequently tweeted disagreement with the current
 Administration's policies on subjects other than immigration—expressing opposition to efforts in

1 Congress to repeal the Affordable Care Act and urging Democrats to resist confirmation of
 2 Supreme Court nominee Neil Gorsuch, among many other issues.

3 41. Occasionally, the account has highlighted USCIS or DHS policies that the speaker
 4 appears to support. For example, the day DHS Secretary Kelly announced that the Department
 5 would continue to exempt from removal individuals covered by the prior Administration's
 6 Deferred Action for Childhood Arrivals policy (DACA), the account issued the following Tweet.



14 U.S. Customs And Border Protection Orders Twitter To Produce
 15 Records That Would Strip The @ALT USCIS Account Of Anonymity

16 42. On March 14, 2017, Defendant Adam Hoffman, an agent within U.S. Customs
 17 and Border Protection, transmitted to Twitter by fax a summons, ordering Twitter to produce
 18 certain records pertaining to the @ALT_USCIS account. The CBP Summons invoked as
 19 authority 19 U.S.C. § 1509. It was signed by Defendant Stephen P. Caruso, a CBP Special
 20 Agent in Charge based in Miramar, Florida. A true and accurate copy of the CBP Summons, in
 21 the form it was received by Twitter, is attached as Exhibit A.

22 43. The CBP Summons states that Twitter is “required” to “produce[] for inspection”
 23 “[a]ll records regarding the [T]witter account @ALT_USCIS to include, User names, account
 24 login, phone numbers, mailing addresses, and I.P. addresses.” The purpose of this request
 25 appears to be, and the effect of Twitter’s complying with it likely would be, to enable or help to
 26 enable Defendants to pierce the anonymity of the person or persons who established and use the
 27 @ALT_USCIS account.
 28

1 44. The CBP Summons warned Twitter that “[f]ailure to comply with this summons
2 will render you liable to proceedings in a U.S. District Court to enforce compliance with this
3 summons as well as other sanctions.”

4 45. The CBP Summons ordered Twitter to produce the records to a CBP office in
5 Washington D.C. by 11:45 A.M. on March 13, 2017—the day *before* the CBP Summons was
6 faxed to Twitter.

7 46. The CBP Summons states generically that “production of the indicated records is
8 required in connection with an investigation or inquiry to ascertain the correctness of entries, to
9 determine the liability for duties, taxes, fines, penalties, or forfeitures, and/or to ensure
10 compliance with the laws or regulations administered by CBP and ICE.” Beyond that boilerplate
11 language, the CBP Summons provides no justification for issuance of a summons targeting the
12 @ALT_USCIS account.

13 47. The CBP Summons further “requested”—but did not order or otherwise compel—
14 Twitter “not to disclose the existence of this summons for an indefinite period of time.”

15 48. Notwithstanding the request on the face of the CBP Summons that Twitter not
16 disclose the existence of the CBP Summons to anyone, a “Summons Notice” included in the
17 CBP Summons describes a procedure whereby the subject of the summons (i.e., the person
18 whose “business transactions or affairs” are purportedly being investigated) supposedly could
19 “object to the examination” of the requested records by “advis[ing] the person summoned [i.e.
20 Twitter], in writing, not to comply with the summons” and “send[ing] a copy of that notice by
21 registered or certified mail to the CBP Officer ... who issued the summons.” To be effective,
22 any such objection would have to be sent “not later than the” deadline set by the CBP Summons
23 for compliance—which, again, had already passed by the time the CBP Summons was served on
24 Twitter. Neither the CBP Summons itself, nor the statute that supposedly authorizes issuance of
25 the summons (*i.e.*, 19 U.S.C. § 1509), nor the regulations implementing that statute describe any
26 procedure for Twitter to object to compliance with the summons.

27 49. On March 28, 2017, counsel for Twitter contacted Defendant Hoffman to raise
28 concerns regarding the request not to provide notice to the user and the legal basis for seeking

1 information about the identified account using a summons issued under 19 U.S.C. § 1509.
2 Defendant Hoffman advised counsel for Twitter that CBP did not want the user notified and that
3 he would discuss notice with his supervisors. With regard to the legal basis for the summons,
4 Defendant Hoffman stated vaguely that he is conducting an investigation. But he did not identify
5 any law or laws that he believed had been broken or point to any evidence substantiating any
6 such belief—such as particular Tweets that he believes were unlawful. Defendant Hoffman took
7 the position that the summons was an appropriate investigative tool, but he did not provide any
8 specifics as to how a summons issued under 19 U.S.C. § 1509 could be an appropriate means for
9 CBP’s Office of Professional Responsibility to be conducting this particular investigation. In
10 fact, to the limited extent he did explain the nature of the investigation, it seemed to confirm that
11 the investigation had nothing to do with obtaining records to assess whether appropriate duties
12 and taxes had been paid on imported merchandise.

13 50. Twitter advised Defendant Hoffman that, unless he or his agency obtained a court
14 order under the federal Stored Communications Act, 18 U.S.C. § 2705, directing Twitter not to
15 disclose the CBP Summons to the @ALT_USCIS accountholder(s), Twitter would, in
16 accordance with its standard practices, notify the accountholder(s) of the existence and content of
17 the CBP Summons. On March 31, 2017, Defendant Hoffman sent Twitter an email confirming
18 that no such court order would be obtained. On April 2, 2017, Twitter stated in a response to
19 Defendant Hoffman that it intended to notify the accountholder(s) the next day about the CBP
20 Summons.

21 51. On April 4, 2017, Twitter notified the @ALT_USCIS accountholder(s) about the
22 existence and contents of the CBP Summons. At approximately the same time, Twitter also
23 informed Defendant Hoffman of its intention to challenge the CBP Summons in court if it was
24 not withdrawn within 48 hours. Later that day, counsel for Twitter sent Defendant Hoffman an
25 email elaborating the bases for Twitter’s legal objections to the CBP Summons—namely that the
26 summons falls outside the statutory parameters of 19 U.S.C. § 1509 and infringes on the First
27 Amendment rights of Twitter’s users and Twitter itself—and reiterating Twitter’s intention to
28 sue absent withdrawal of the summons.

52. As of today's date, Defendants have not notified Twitter of any intent to withdraw the CBP Summons.

COUNT I
(19 U.S.C. § 1509; Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202;
APA, 5 U.S.C. § 706)

THE SUMMONS EXCEEDS THE SCOPE
OF CBP'S AUTHORITY UNDER 19 U.S.C. § 1509

53. Plaintiff hereby incorporates by reference paragraphs 1-52 as if set forth fully herein.

54. The summons is unlawful because it demands production of records that CBP is not authorized to obtain under 19 U.S.C. § 1509.

55. The summons exceeds the scope of CBP's authority under 19 U.S.C. § 1509 for two reasons. *First*, 19 U.S.C. § 1509 authorizes CBP to obtain documents only for investigations and inquiries relating to the importation of merchandise. *Second*, even if CBP issued the summons for a proper purpose, the summons seeks production of records that are not of the narrowly limited type that CBP is authorized to obtain under 19 U.S.C. § 1509. These two reasons are explained more fully below.

56. *First*, 19 U.S.C. § 1509 confers authority on the Secretary (or a delegate at or above the rank of district director or special agent in charge) to compel disclosure of records only in connection with "any investigation or inquiry conducted for the purpose of ascertaining the correctness of any entry, for determining the liability of any person for duty, fees and taxes due or duties, fees and taxes which may be due the United States, for determining liability for fines and penalties, or for insuring compliance with the laws of the United States administered by the United States Customs Service." 19 U.S.C. § 1509(a). The first three items on the list clearly relate narrowly to imports, and the meaning of the fourth term is "cabin[ed]" by the first three. *See Yates v. United States*, 135 S. Ct. 1074, 1085 (2015) (applying "the principle of *noscitur a sociis*—a word is known by the company it keeps—to 'avoid ascribing to one word a meaning so broad that it is inconsistent with its accompanying words, thus giving unintended breadth to the Acts of Congress.'" (quoting *Gustafson v. Alloyd Co.*, 513 U.S. 561, 575 (1995))).

57. Defendants could not plausibly establish that they issued the CBP Summons—which demands “[a]ll records regarding the [T]witter account @ALT_USCIS to include User names, account login, phone numbers, mailing addresses, and I.P. addresses”—in any investigation or inquiry relating to the import of merchandise.

58. *Second*, § 1509 does not authorize the Defendants to compel production of the account-related records that the summons demands. The Secretary or his delegate can compel the production of only records that fall within a narrow category defined in 15 U.S.C. § 1509(d)(1)(A). *See* 15 U.S.C. § 1509(a)(2)(D) (“[T]he Secretary ... may ... summon ... any ... person he may deem proper ... to produce records, *as defined in subsection (d)(1)(A).*”).

59. Subsection 1509(d)(1)(A) limits the “records” whose production may be permissibly compelled through a summons to those (1) that are “required to be kept under section 1508 of this title” and (2) “regarding which there is probable cause to believe that they pertain to merchandise the importation of which into the United States is prohibited.” The records that the CBP Summons demands Twitter to disclose meet neither of these criteria.

60. Section 1508 requires importers to maintain certain records relating to their activity of importing merchandise. *See United States v. Frowein*, 727 F.2d 227, 233 (2d Cir. 1984) (“Section 1508 ... imposes recordkeeping requirements on those who import or cause goods to be imported.”). Specifically, the entities that must maintain records under section 1508 are limited to the following: any “owner, importer, consignee, importer of record, entry filer, or other party who—(A) imports merchandise into the customs territory of the United States, files a drawback claim, or transports or stores merchandise carried or held under bond, or (B) knowingly causes the importation or transportation or storage of merchandise carried or held under bond into or from the customs territory of the United States,” 19 U.S.C. § 1508(a)(1); *or* any “agent of any party described in paragraph (1),” *id.* § 1508(a)(2); *or* any “person whose activities require the filing of a declaration of entry, or both,” *id.* § 1508(a)(3). The records Section 1508 requires these entities to maintain are limited to records that both “pertain to any such activity, or to the information contained in the records required by this chapter in

1 connection with any such activity” and “are normally kept in the ordinary course of business.” 19
 2 U.S.C. § 1508(a)(3).

3 61. Subsection 1509(d)(1)(A)(ii) likewise limits the scope of records whose
 4 production CBP may compel pursuant to a summons to records relating to the importation of
 5 merchandise—specifically, records “pertain[ing] to *merchandise the importation of which into*
 6 *the United States is prohibited.*”

7 62. The CBP Summons plainly does not request records relating to the importation of
 8 merchandise. It requests that Twitter produce information that pertains to the identity of the
 9 person(s) who established and use the @ALT_USCIS account. And it is utterly implausible that
 10 Defendants’ interest in the person(s) who established and use the @ALT_USCIS account stems
 11 from their importation of merchandise into the United States.

12 63. The CBP Summons also violates the Stored Communications Act (“SCA”),
 13 18 U.S.C. § 2701 *et seq.*, which “protects individuals’ privacy and proprietary interests,”
 14 “reflect[ing] Congress’s judgment that users have a legitimate interest in the confidentiality of
 15 communications in electronic storage at a communications facility.” *Theofel v. Farey-Jones*, 359
 16 F.3d 1066, 1072 (9th Cir. 2003). The SCA establishes legal processes that government agencies
 17 must follow in order to obtain certain types of information from a service provider such as
 18 Twitter, which have not been followed here. The basic subscriber information the CBP
 19 Summons seeks—such as the user’s name and address—can be obtained “us[ing] an
 20 administrative subpoena authorized by a Federal or State statute.” 18 U.S.C. § 2703(c)(2). But
 21 the CBP Summons is not a valid administrative subpoena because, among other defects, it
 22 exceeds the scope of CBP’s authority under 19 U.S.C. § 1509.

23 64. For the foregoing reasons, the Court should enjoin Defendants from taking any
 24 further action to enforce the CBP Summons and declare it to be an unlawful exercise of
 25 Defendants’ authority, in contravention of 15 U.S.C. § 1509 and the SCA. Such relief is
 26 warranted under, among other laws, the APA because issuance, service, and enforcement of the
 27 subpoena is “not in accordance with law” and “in excess of statutory jurisdiction, authority, or
 28 limitations.” 5 U.S.C. § 706(2)(A), (C).

COUNT II

(U.S. Const. amend. I; Declaratory Judgment Act, 28 U.S.C. §§ 2201-2202;
APA, 5 U.S.C. § 706)

**THE FIRST AMENDMENT BARS THE CBP SUMMONS ABSENT SATISFACTION
OF THE STRINGENT STANDARD FOR UNMASKING ANONYMOUS SPEAKERS**

65. Plaintiff herein incorporates by reference paragraphs 1-64 as if set forth fully herein.

66. Twitter provides a platform for speech for hundreds of millions of users. Its users Tweet about a broad range of topics, from a favorite sports team to the birth of a child to the latest executive order. Many of Twitter’s users choose to express themselves on the platform pseudonymously.

67. The CBP Summons seeks to force Twitter to disclose information that would identify, or likely lead to the identification of, a person (or group of persons) who has chosen to criticize the government pseudonymously and whose speech is potentially valuable since the person—as a self-described public employee—may be in the best position to “know what ails the agenc[y] for which [he or she] work[s].” *Dahlia v. Rodriguez*, 735 F.3d 1060, 1066-1067 (9th Cir. 2013) (quoting *Waters v. Churchill*, 511 U.S. 661, 674 (1994)).

68. Compelled disclosure of the identities of Twitter users who have engaged in pseudonymous speech would chill their exercise of the constitutionally protected right to speak anonymously. Moreover, independent of its users’ rights, Twitter’s actions in providing a platform for the dissemination of its users’ speech—including its decision to permit the publication of pseudonymous speech—is fully protected by the First Amendment. *See, e.g., Marcus v. Search Warrants*, 367 U.S. 717, 731-732 (1961); *cf., e.g., Arkansas Educ. Television Comm’n v. Forbes*, 523 U.S. 666, 674 (1998). When rights of free speech—especially anonymous free speech—are at stake, courts generally permit an organization or business to assert those rights on behalf of its members or customers. *See, e.g., Virginia v. American Booksellers Ass’n, Inc.*, 484 U.S. 383, 392-393 (1988) (permitting booksellers to assert First Amendment rights of buyers of adult-oriented books); *Publius v. Boyer-Vine*, 2017 WL 772146,

at *5 n.5 (E.D. Cal. Feb. 27, 2017) (collecting cases holding that entities such as websites can assert the First Amendment rights of their anonymous users).

69. The decision to speak anonymously or pseudonymously is protected by the First Amendment. As the Supreme Court has explained, “an author’s decision to remain anonymous, like other decisions concerning omissions or additions to the content of a publication, is an aspect of the freedom of speech protected by the First Amendment.” *McIntyre v. Ohio Elections Comm’n*, 514 U.S. 334, 342 (1995). “Anonymity is a shield from the tyranny of the majority. It thus exemplifies the purpose behind the Bill of Rights, and of the First Amendment in particular: to protect unpopular individuals from retaliation—and their ideas from suppression—at the hand of an intolerant society.” *Id.* at 357.

70. A time-honored tradition of pseudonymous free speech on matters of public moment runs deep in the political life of America. “Undoubtedly the most famous pieces of American political advocacy are *The Federalist Papers*, penned by James Madison, Alexander Hamilton, and John Jay, but published under the pseudonym ‘Publius.’” *In re Anonymous Online Speakers*, 661 F.3d 1168, 1172-73 (9th Cir. 2011) (citing *McIntyre*, 514 U.S. at 344 n.6).

71. The decision to maintain anonymity “may be motivated by fear of economic or official retaliation, by concern about social ostracism, or merely by a desire to preserve as much of one’s privacy as possible.” *Watchtower Bible and Tract Soc’y of New York, Inc. v. Village of Stratton*, 122 S. Ct. 2080, 2089-90 (2002) (internal citation omitted). In the present case, there is reason for concern that the CBP Summons itself may reflect the very sort of official retaliation that can result from speech that criticizes government officials and agencies. Because of the potential for retaliation and ostracism, “[t]here can be no doubt that [requiring identification of pseudonymous authors] would tend to restrict freedom to distribute information and thereby freedom of expression.” *Talley v. California*, 362 U.S. 60, 64-65 (1960); *see also* (*WIN*) *Washington Initiatives Now v. Rippie*, 213 F.3d 1132, 1139 (9th Cir. 2000) (“Depriving individuals of ... anonymity is ... ‘a broad intrusion, discouraging truthful, accurate speech by those unwilling to [disclose their identities] and applying regardless of the character or strength of an individual’s interest in anonymity.’”) (quoting *American Constitutional Law Found., Inc. v.*

1 *Meyer*, 120 F.3d 1092, 1103 (10th Cir. 1997)); *see also Am. Civil Liberties Union of Nevada v.*
 2 *Heller*, 378 F.3d 979, 988 (9th Cir. 2004).

3 72. These First Amendment interests are at their zenith when, as here, the speech at
 4 issue touches on matters of public political life. Political expression “occupies the core of the
 5 protection afforded by the First Amendment” and must be afforded the highest level of First
 6 Amendment protection. *McIntyre*, 514 U.S. at 346; *see also Mills v. Alabama*, 384 U.S. 214,
 7 218 (1966) (“[T]here is practically universal agreement that a major purpose of that Amendment
 8 was to protect the free discussion of governmental affairs.”); *New York Times Co. v. Sullivan*,
 9 376 U.S. 254, 270 (1964) (a case should be considered “against the background of a profound
 10 national commitment to the principle that debate on public issues should be uninhibited, robust,
 11 and wide-open, and that it may well include vehement, caustic, and sometimes unpleasantly
 12 sharp attacks on government and public officials.”).

13 73. These protections for anonymous and pseudonymous political speech are as
 14 robust on the Internet as any other mode of speech. The Supreme Court has unequivocally held
 15 that speech on the Internet is entitled to the highest form of First Amendment protection. *See*
 16 *Reno v. ACLU*, 521 U.S. 844, 870 (1997). As the Supreme Court aptly recognized, through the
 17 Internet and interactive services such as Twitter, “any person with a phone line can become a
 18 town crier with a voice that resonates farther than it could from any soapbox. Through the use of
 19 Web pages, mail exploders, and newsgroups, the same individual can become a pamphleteer.”
 20 *Id.*; *see also In re Anonymous Online Speakers*, 661 F.3d at 1173 (“Although the Internet is the
 21 latest platform for anonymous speech, online speech stands on the same footing as other
 22 speech.”). “As with other forms of expression, the ability to speak anonymously on the Internet
 23 promotes the robust exchange of ideas and allows individuals to express themselves freely
 24 without ‘fear of economic or official retaliation ... [or] concern about social ostracism.’” *In re*
 25 *Anonymous Online Speakers*, 661 F.3d at 1173 (quoting *McIntyre*, 514 U.S. at 341-342).

26 74. Compelling Twitter to disclose information that would identify or lead to the
 27 identification of the person(s) who established and use the @ALT_USCIS account would chill
 28 the expression of particularly valuable political speech—namely speech by current or former

public employees, or others with special insight into operations of our government. The Constitution does not permit a government agency to suppress dissent voiced by current or former employees in their private capacity—especially when such efforts exceed the agency’s statutory authority. “[C]itizens do not surrender their First Amendment rights by accepting public employment.” *Lane v. Franks*, 134 S. Ct. 2369, 2374 (2014). Indeed, “[t]here is a significant First Amendment interest in encouraging public employees, who have special access to facts relevant to debates on issues of public concern, to speak freely and make that information available.” *Johnson v. Multnomah Cty., Or.*, 48 F.3d 420, 424 (9th Cir. 1995). “[S]peech by public employees on subject matter related to their employment holds special value precisely because those employees gain knowledge of matters of public concern through their employment.” *Franks*, 134 S. Ct. at 2378-2381. “It may often be the case that, unless public employees are willing to blow the whistle, government corruption and abuse would persist undetected and undeterred.” *Dahlia*, 735 F.3d at 1066-1067. “The interest at stake is as much the public’s interest in receiving informed opinion as it is the employee’s own right to disseminate it.” *San Diego v. Roe*, 543 U.S. 77, 82 (2004).

75. In light of the compelling First Amendment interests at stake, Defendants must satisfy “stringent standards” before using a subpoena or other compulsory legal process to attempt to unmask the identity of the person(s) who established and use the @ALT_USCIS account. *Mason Awtry v. Glassdoor, Inc.*, 2016 WL 1275566, at *1 (N.D. Cal. Apr. 1, 2016); see *In re Anonymous Online Speakers*, 661 F.3d at 1778 (“[T]he nature of the speech should be a driving force in choosing a standard by which to balance the rights of anonymous speakers” against the interests of those seeking disclosure, with political speech warranting “imposition of a heightened standard”). In particular, Defendants must demonstrate that (1) “there is a real evidentiary basis for believing” that some criminal or civil offense has been committed, *Highfields Capital Mgmt., L.P. v. Doe*, 385 F. Supp. 2d 969, 975-976 (N.D. Cal. 2005); (2) revealing the identity of the speaker(s) is “necessary”—that is, that it is the least restrictive means for investigating that offense, *Glassdoor, Inc.*, 2016 WL 1275566, at *16; *Art of Living Foundation v. Does 1-10*, 2011 WL 5444622, *10 (N.D. Cal. Nov. 9, 2011); (3) Defendants’

1 demand for this information is not motivated by a desire to suppress free speech; and (4) the
 2 interests of pursuing that investigation outweigh the important First Amendment rights of Twitter
 3 and its users, *Highfields*, 385 F. Supp. 2d at 975-976. *See also Doe No. 1 v. Cahill*, 884 A.2d
 4 451 (Del. 2005) (preventing disclosure of identity of anonymous online speaker); *Dendrite*
 5 *Intern., Inc. v. Doe No. 3*, 775 A.2d 756 (N.J. Super. 2001) (same). The heightened showing
 6 required for such compulsory legal process is not only supported by substantial judicial
 7 precedent, but also is consistent with the special procedures erected in other contexts to protect
 8 First Amendment rights. *E.g., Makaeff v. Trump Univ., LLC*, 736 F.3d 1180, 1182-1183 (9th
 9 Cir. 2013) (California’s anti-SLAPP statute “establish[es] a summary-judgment-like procedure
 10 available at an early stage of [a] litigation that poses a potential chilling effect on speech-related
 11 activities” (internal quotation omitted)); 28 C.F.R. § 50.10(c)(1) (requiring subordinates in the
 12 Department of Justice to obtain the authorization of the Attorney General to issue a subpoena to
 13 a member of the news media, or to use a subpoena to obtain from a third party communications
 14 records or business records of a member of the news media).

15 76. Defendants have satisfied none of these requirements. To meet the first
 16 requirement, Defendants must “adduce *competent evidence*” that “address[es] *all* of the
 17 inferences of fact that [Defendants] would need to prove in order to [substantiate] at least one of
 18 the” offenses that Defendants believe has been committed. *Highfields Capital Mgmt., L.P.*, 385
 19 F. Supp. at 975. Defendants have fallen far short of this standard, given that they have neither
 20 specified any offense they are purportedly investigating nor presented *any* evidence in support of
 21 any element of any such offense.

22 77. Defendants have likewise failed to demonstrate that unmasking the identity of the
 23 @ALT_USCIS accountholder(s) is the least restrictive way to investigate any offense or offenses
 24 that they believe were committed. To establish that the CBP Summons is “necessary,”
 25 Defendants must explain why other investigatory tools they have deployed have fallen short,
 26 leaving Defendants with no choice but to pierce @ALT_USCIS’s pseudonymity. *E.g.*,
 27 *Glassdoor, Inc.*, 2016 WL 1275566, at *16; *Art of Living Foundation*, 2011 WL 5444622, at *10.
 28 Defendants have not come close to making that showing.

78. Defendants’ failure to establish that some offense within the law enforcement purview of CBP was actually committed and that the CBP Summons is necessary to investigate that offense likewise confirms that Defendants have failed to demonstrate that the summons is not motivated by a desire to suppress free speech, or that Defendants’ need to unmask the identity of the @ALT_USCIS accountholder(s) outweighs the harm that doing so would cause to the First Amendment rights of Twitter and its users.

79. For the foregoing reasons, the Court should enjoin Defendants from taking any further action to enforce the CBP Summons and—absent the requisite showing—declare it to be a violation of the rights of Twitter and its users under the First Amendment. Such relief is warranted under, among other laws, the APA, because issuance, service, and enforcement of the CBP Summons is “contrary to constitutional right.” 5 U.S.C. § 706(2)(B).

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that this Court grant the following relief:

a. Declare that the CBP Summons is unlawful and unenforceable because Defendants issued it for reasons not authorized by 19 U.S.C. § 1509 and because it demands production of documents that Defendants are not authorized to demand or obtain under 19 U.S.C. § 1509, and further declare that the CBP Summons violates the Administrative Procedure Act as not in accordance with law, 5 U.S.C. § 706(2)(A), and “in excess of statutory jurisdiction, authority, or limitations,” *id.* § 706(2)(C).

b. Declare that the CBP Summons is unlawful and unenforceable because it violates the First Amendment rights of both Twitter and its users by seeking to unmask the identity of one or more anonymous Twitter users voicing criticism of the government on matters of public concern without Defendants having satisfied the stringent standards for piercing a speaker’s anonymity, and further declare that the CBP Summons violates the Administrative Procedure Act as “contrary to constitutional right,” 5 U.S.C. § 706(2)(B);

c. Issue an order vacating and nullifying the CBP Summons, enjoining Defendants or their agents from enforcing the CBP Summons, and declaring that Twitter has no obligation to comply with the CBP Summons;

- 1 d. Award Plaintiff its costs and reasonable attorney's fees as appropriate; and
2 e. Grant such other relief as this Court may deem just and proper.

3
4 Dated: April 6, 2017

Respectfully submitted,

5 /s/ Mark D. Flanagan

6 SETH P. WAXMAN (*pro hac vice* pending)

7 seth.waxman@wilmerhale.com

8 PATRICK J. CAROME (*pro hac vice* pending)

9 patrick.carome@wilmerhale.com

10 ARI HOLTZBLATT (*pro hac vice* pending)

11 ari.holtzblatt@wilmerhale.com

12 WILMER CUTLER PICKERING

13 HALE AND DORR LLP

14 1875 Pennsylvania Avenue, NW

15 Washington, D.C. 20006

16 Telephone: (202) 663-6000

17 Facsimile: (202) 663-6363

18 MARK D. FLANAGAN (CA SBN 130303)

19 mark.flanagan@wilmerhale.com

20 WILMER CUTLER PICKERING

21 HALE AND DORR LLP

22 950 Page Mill Road

23 Palo Alto, California 94304

24 Telephone: (650) 858-6000

25 Facsimile: (650) 858-6100

26
27 *Counsel for Plaintiff Twitter, Inc.*
28

Exhibit A

U.S. DEPARTMENT OF HOMELAND SECURITY
Bureau of Customs and Border Protection

FACSIMILE TRANSMITTAL

CD 2110-035

Date:

Control Number:

TO	Name:	Trust & Safety - Legal Policy
	Organization:	Twitter Inc
	Fax Number:	[REDACTED]
	Number of Pages (including cover):	4
FROM	Sender:	SA Adam Hoffman
	Originating Location:	DHS Customs and Border Protection
	Return FAX Number:	1-202-344-1258
	Voice Number:	1-202-344-3194
REMARKS	Please complete the Acknowledgment of Receipt and return to Fax # 1-202-344-1258	

Important: This document may contain confidential and sensitive U.S. Government information. Please deliver it immediately only to the intended recipient(s) listed above. The Bureau of Customs and Border Protection has not approved the documents review, retransmission, dissemination or use by anyone other than the intended recipient(s).

To (Name, Address, City, State, Zip Code) Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	DEPARTMENT OF HOMELAND SECURITY SUMMONS NOTICE to Appear and/or Produce Records 19 U.S.C. § 1509
<p>Attached is a copy of a summons served by U.S. Immigration and Customs Enforcement (ICE) or U.S. Customs and Border Protection (CBP), both agencies within the Department of Homeland Security (DHS), to examine records or to request testimony relating to records of your business transactions or affairs which have been made or kept by the person named in Block 1 of the summons.</p> <p>If you object to the examination of these records, you may stay (prevent) examination of the records until a summons enforcement proceeding is commenced in court. Compliance with the summons will be stayed if, not later than the day before the date indicated in Block 2 of the summons, you advise the person summoned (the person named in Block 1), in writing, not to comply with the summons, and you send a copy of that notice by registered or certified mail to the CBP Officer or ICE Special Agent who issued the summons at the address shown in Block 6 of the summons.</p> <p>CBP or ICE may begin an action to enforce the summons in the appropriate United States District Court. In such cases, you will be notified and you will have the right to intervene and present your objections before the court. The court will decide whether the person summoned should be required to comply with the summons.</p> <p>If the court issues an order to comply with the summons and the person summoned fails to comply, the court may punish such failure as a contempt of court. Other sanctions may be provided by law.</p> <p>If you have any questions regarding this matter, please contact the CBP Officer or ICE Special Agent before whom the summoned person is required to appear. The CBP Officer's or ICE Special Agent's name and telephone number are given in Block 2 of the summons.</p>	

1. To (Name, Address, City, State, Zip Code) Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103	DEPARTMENT OF HOMELAND SECURITY SUMMONS to Appear and/or Produce Records 19 U.S.C. § 1509
Summons Number 2017012	Case Number: 201704511

By the service of this subpoena upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

- (A) ☐ **APPEAR** before the U.S. Customs and Border Protection (CBP) Officer or U.S. Immigration and Customs Enforcement (ICE) Special Agent named in Block 2 at the place, date, and time indicated to testify and give information.
- (B) ☒ **PRODUCE** the records (including statements, declarations, and other documents) indicated in Block 3 before the CBP Officer or ICE Special Agent named in Block 2 at the place, date, and time indicated.


Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry to ascertain the correctness of entries, to determine the liability for duties, taxes, fines, penalties, or forfeitures, and/or to ensure compliance with the laws or regulations administered by CBP and ICE.

Failure to comply with this summons will render you liable to proceedings in a U.S. District Court to enforce compliance with this summons as well as other sanctions.

2. (A) CBP Officer or ICE Special Agent before whom you are required to appear Name Adam Hoffman Title Special Agent Address 1300 Pennsylvania Ave. N.W. Room 8.3 Washington D.C. 20229 Telephone Number 1-202-344-3194	(B) Date 03/13/2017 (C) Time 11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
3. Records required to be produced for inspection All records regarding the twitter account @ALT_USCIS to include, User names, account login, phone numbers, mailing addresses, and I.P addresses.	

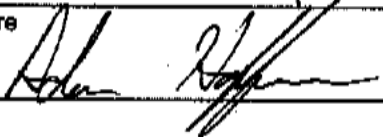
You are requested not to disclose the existence of this summons for an indefinite period of time. Any such disclosure will impede this investigation and thereby interfere with the enforcement of federal law.

Issued under authority of section 509, Tariff Act of 1930, as amended by Public law 95-410 (19 U.S.C. § 1509); 44 F.R. 2217; Homeland Security Act of 2002

4. Name of person authorized to serve this summons or any other CBP Officer or ICE Special Agent Special Agent Adam Hoffman	5. Date of issue 03/14/2017 By <u>Stephen P. Caruso</u> (Signature)
	6. Name, title, address, and telephone number of person issuing this summons Name Stephen P. Caruso Title Special Agent in Charge Address 11606 City Hall Promenade Suite 400, Miramar, FL 33025 Telephone Number (954) 843-5068

If you have any questions regarding this summons, contact the CBP Officer or ICE Special Agent identified in Block 2.

CERTIFICATE OF SERVICE AND ACKNOWLEDGMENT OF RECEIPT

A. CERTIFICATE OF SERVICE OF SUMMONS			
I certify that I served the summons on the front of this form as follows:			
<input type="checkbox"/> I delivered a copy of the summons to the person to whom it was directed, as follows:	Address or Location	Date	
		Time	
		<input type="checkbox"/> a.m. <input type="checkbox"/> p.m.	
<input checked="" type="checkbox"/> (For corporations, partnerships, and unincorporated associations which may be sued under a common name) I delivered a copy of the summons to an officer, managing or general agent, or agent authorized to accept service of process as follows:	Address or Location		Date
	Twitter, Inc. c/o Trust & Safety - Legal Policy 1355 Market Street, Suite 900 San Francisco, CA 94103		03/13/2017
			Time
			11:45 <input checked="" type="checkbox"/> a.m. <input type="checkbox"/> p.m.
Name of person to whom the summons was delivered			
Faxing to [REDACTED] (attn: Trust & Safety - Legal Policy)			
Signature 			
Title Special Agent		Date 03/13/2017	

B. ACKNOWLEDGMENT OF RECEIPT		
I acknowledge receipt of a copy of the summons on the front of this form.		
Signature		
Title	Date	Time <input type="checkbox"/> a.m. <input type="checkbox"/> p.m.

CIVIL COVER SHEET

The JS-CAND 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved in its original form by the Judicial Conference of the United States in September 1974, is required for the Clerk of Court to initiate the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

TWITTER, INC.

(b) County of Residence of First Listed Plaintiff
(EXCEPT IN U.S. PLAINTIFF CASES)(c) Attorneys (Firm Name, Address, and Telephone Number)
(see attachment)

DEFENDANTS

U.S. DEPARTMENT OF HOMELAND SECURITY; U.S. CUSTOMS AND BORDER PROTECTION; JOHN F. KELLY, in his official capacity as Secretary of Homeland Security; KEVIN K. MCALLENAN, in his official capacity as Acting Commissioner, U.S. Customs and Border Protection; STEPHEN P. CARUSO, in his official capacity as Special Agent In Charge, U.S. Customs and Border Protection; and ADAM HOFFMAN, in his official capacity as Special Agent, U.S. Customs and Border Protection

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF
THE TRACT OF LAND INVOLVED
Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 2 U.S. Government Defendant
☐ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment Of Veteran's Benefits <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice PERSONAL INJURY <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC § 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC § 158 <input type="checkbox"/> 423 Withdrawal 28 USC § 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS-Third Party 26 USC § 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC § 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input checked="" type="checkbox"/> 440 Other Civil Rights <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 445 Amer w/Disabilities-Employment <input type="checkbox"/> 446 Amer w/Disabilities-Other <input type="checkbox"/> 448 Education PRISONER PETITIONS Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty Other: <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition <input type="checkbox"/> 560 Civil Detainee-Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation-Transfer ☐ 8 Multidistrict Litigation-Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. §§ 2201-2202; 5 U.S.C. § 706

Brief description of cause:

Summons exceeds scope of authority under 19 U.S.C. § 1509 and violates the First Amendment

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, Fed. R. Civ. P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S),

IF ANY (See instructions):

JUDGE

DOCKET NUMBER

IX. DIVISIONAL ASSIGNMENT (Civil Local Rule 3-2)

(Place an "X" in One Box Only)

☒ SAN FRANCISCO/OAKLAND ☐ SAN JOSE ☐ EUREKA-MCKINLEYVILLE

DATE: 04/06/2017

SIGNATURE OF ATTORNEY OF RECORD: /s/ Mark D. Flanagan

CBP FOIA000428

Print

Save As...

Reset

CIVIL COVER SHEET

Attachment

Part I (c) Attorneys for Plaintiffs (Firm Name, Address, and Telephone Number)

Mark D. Flanagan (CA SBN 130303)
WILMER CUTLER PICKERING
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ari.holtzblatt@wilmerhale.com
Telephone: (202) 663-6964

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 13, 2017 6:55 PM
To: (b) (6), (b) (7)(C)
Subject: Calls tomorrow morning
Attachments: C1 Signed Response to RM Wyden.pdf; Incoming WF Gardner 04.07.17.pdf

Importance: High

(b) (6), (b) (7)(C) (direct)

(b) (6), (b) (7)(C) (direct)

(b) (6), (b) (7)(C) (office number)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) (direct)



U.S. Customs and
Border Protection

Commissioner

APR 11 2017

The Honorable Ron Wyden
Ranking Member
Committee on Finance
United States Senate
Washington, DC 20510

Dear Ranking Member Wyden:

This is in response to your April 7, 2017 correspondence regarding the summons U.S. Customs and Border Protection (CBP) issued to Twitter, Inc. on March 14, 2017. My staff reached out to your office on April 7, 2017, to provide information regarding the summons, and I had the opportunity to speak with your Trade Counsel, (b) (6)

The investigation which prompted the issuance of the summons was initiated by CBP's Office of Professional Responsibility's (OPR) Cyber Investigations group, in conjunction with CBP's Special Agent in Charge, Miami, FL, and with assistance from the Department of Homeland Security's (DHS) Office of Inspector General (OIG) Cyber. It was focused on potential internal misconduct which is OPR's mandate. On April 7, 2017, DHS-OIG assumed full investigative jurisdiction over this investigation. On Friday, April 7, 2017, CBP withdrew the summons and as a result, Twitter voluntarily dismissed all claims, resolving the litigation.

Thank you again for your interest in this important matter. We stand ready to brief and discuss this issue further at your convenience.

Sincerely,

(b) (6), (b) (7)(C)

Kevin K. McAleenan
Acting Commissioner

United States Senate
WASHINGTON, DC 20510

SCANNED/RECEIVED
BY ESEC SEC

2017 APR -7 PM 4:49

April 7, 2017

The Honorable John F. Kelly
Secretary of Homeland Security
U.S. Department of Homeland Security
3801 Nebraska Avenue NW
Washington, D.C. 20528

Dear Secretary Kelly:

We are writing to request clarification about U.S. Customs and Border Protection's (CBP's) internal protocols for ordering that private companies divulge their customers' names, addresses, account holder details, or any other personally identifiable information.

Recent news reports allege that a Special Agent in Charge at CBP ordered Twitter to reveal the identity of a Twitter user who operates a parody account called @ALT_USCIS. That Twitter user frequently criticizes the government's policies, specifically those policies in place at DHS and CBP. In order to better understand how and why CBP requests such information, please answer the following questions:

1. Under what statutory authority may CBP pursue agency investigations of private companies, their customers, or individuals? If DHS believes such CBP investigations may rely on multiple provisions of law, please list all that apply.
2. How many requests has CBP made of private companies for their customers' personally identifiable information or any other information that might otherwise lead CBP to the identity of any of those companies' customers?
3. Is there any official established policy at DHS or CBP that provides guidance to officials within CBP on when and whether such requests should be made? If so, please provide a reference to that specific policy and if not, please indicate how such decisions are made.
4. Prior to requesting that private companies divulge their customers' personally identifiable information or other details about their customers, does CBP pursue any other courses of action to attempt to complete their investigation without making such a request? If so, please detail what courses of action CBP typically takes prior to making such a request.
5. Is there any circumstance in which CBP would consider non-criminal speech a sole factor in whether to request that a private company divulge any of their customers' personally identifiable information or any other information that might otherwise lead CBP to the identity of any of those customers?

6. Are there instances outside of an official criminal or civil investigation in which CBP would request that a private company provide a customer's personally identifiable information or any other information that might otherwise lead CBP to the identity of that customer? If so, please provide examples of such instances.
7. Do DHS and CBP believe that an appropriate court order should be sought prior to requesting that a private company unmask the identity of one of their customers?

CBP must ensure that any properly authorized investigation does not disregard the rights to free speech enshrined in the First Amendment to the U.S. Constitution. Greater clarification as to how DHS and CBP approach such investigations will help the public understand your Department's level of commitment to those fundamental principles. We look forward to your prompt reply.

Sincerely,



Cory Gardner
U.S. Senator



Mike Lee
U.S. Senator

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Friday, April 14, 2017 8:38 AM
To: (b) (6), (b) (7)(C)
Subject: FW: CBP Internal Corruption (003).docx
Attachments: CBP Internal Corruption (003).docx

FYSA- she also sent me this when we were discussing the (b) (7)(E) document...
Not sure if you had this, but wanted you on the same page

From: (b) (6), (b) (7)(C)
Sent: Friday, April 14, 2017 9:15 AM
To: (b) (6), (b) (7)(C)
Subject: CBP Internal Corruption (003).docx

(b) (5), (b) (7)(E)



(b) (5), (b) (7)(E)



(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Friday, April 07, 2017 2:58 AM
To: (b) (6), (b) (7)(C)
Cc:
Subject: RE: "alt" case
Attachments: CBP Internal Corruption.docx

(b) (6), (b) (7)(C)

See attached.

From: (b) (6), (b) (7)(C)
Sent: Thursday, April 06, 2017 8:17 PM
To: FUNN, ERICK K (OPR) <(b) (6), (b) (7)(C)>
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)

Subject: RE: "alt" case

I looped in the 2 chief counsel attorneys, (b) (6), (b) (7)(C) and (b) (6), (b) (7)(C). I inquired if they communicated with twitter after their meeting with (b) (6), (b) (7)(C)

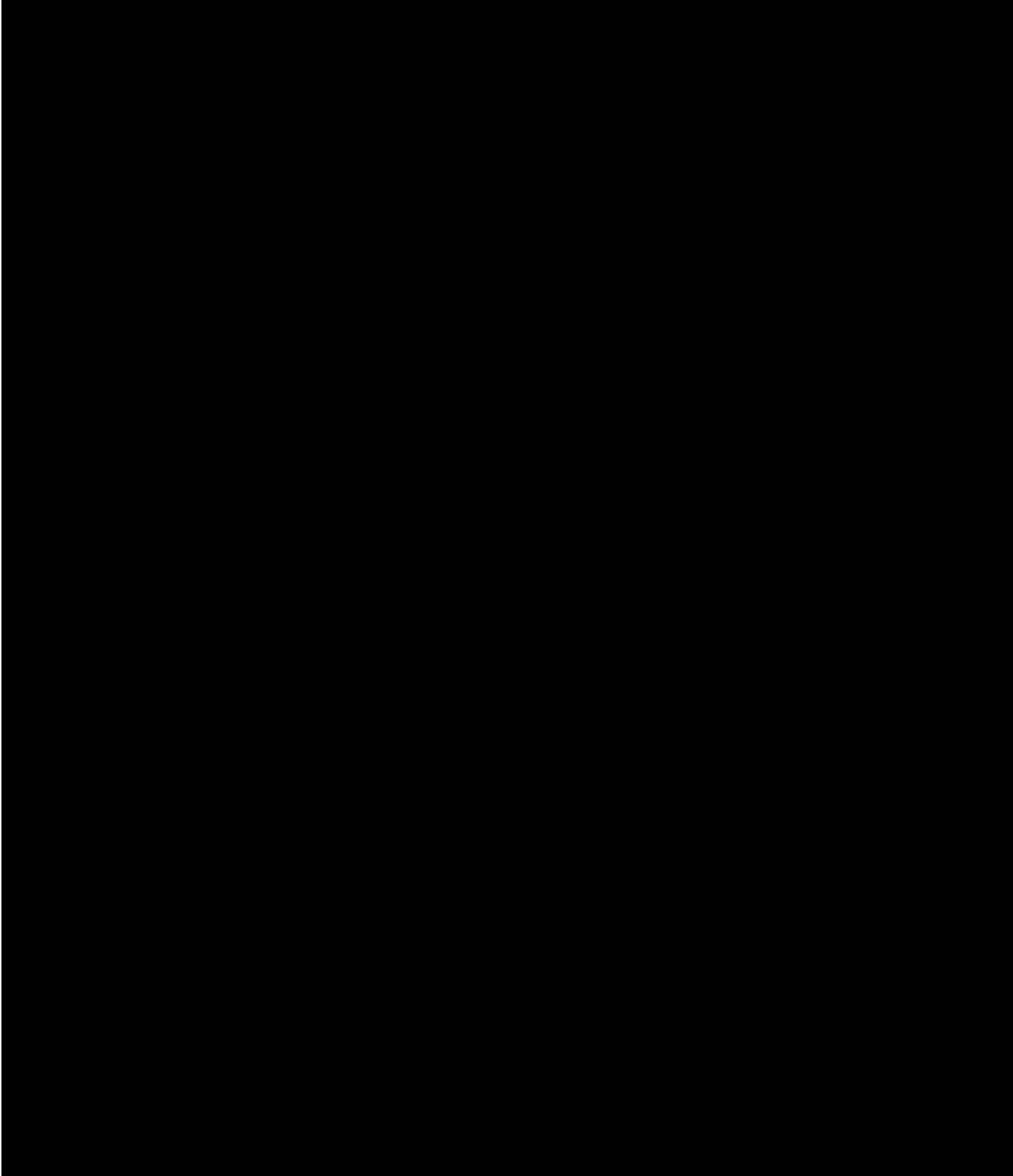
From: FUNN, ERICK K (OPR)
Sent: Friday, April 07, 2017 12:50:57 AM
To: (b) (6), (b) (7)(C) (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C)
Subject: "alt" case

All

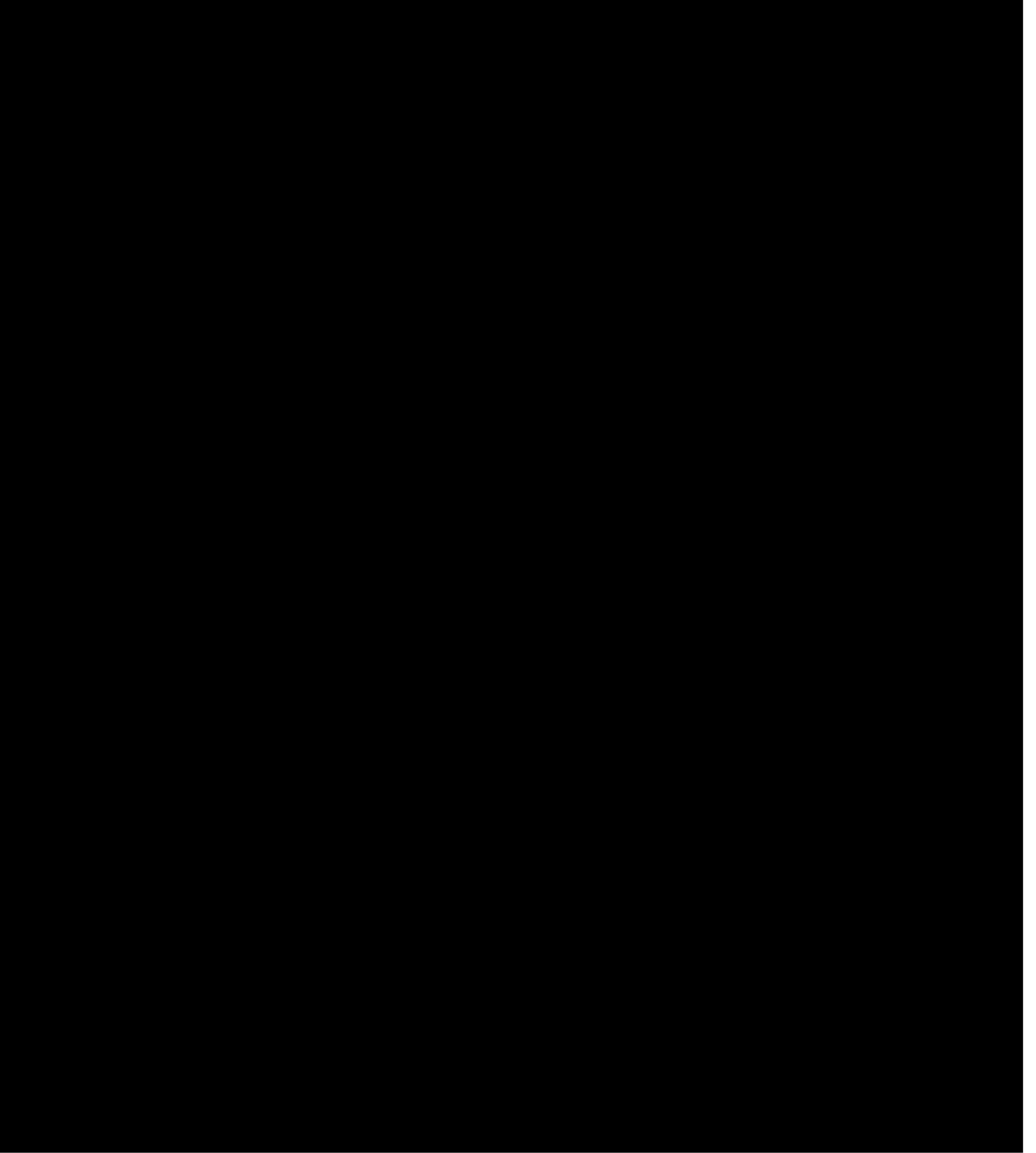
Prepare the briefing document tonight but do not conduct any further investigative activity. The OIG is assuming this case for investigation.

Erick

(b) (5), (b) (7)(E)



(b) (5), (b) (7)(E)



(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C) (OPR)
Sent: Sunday, April 09, 2017 11:18 PM
To: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)
Subject: RE: C1 letter to Senator Wyden, Request Assistance

Thank you Sir.



(b) (6), (b) (7)(C)
Deputy Director - Field Operations (Acting) | Headquarters - Washington, D.C.
U.S. Customs and Border Protection | Office of Professional Responsibility | Investigative Operations Division
Cellular (b) (6), (b) (7)(C) Electronic Mail (b) (6), (b) (7)(C)

From: FUNN, ERICK K (OPR)
Sent: Sunday, April 09, 2017 9:09 PM

(b) (6), (b) (7)(C)

Subject: RE: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C)

Here is a starting point for you both. It looks like the deadline is the 9am intel briefing.

Erick

<BEGIN>

(b) (5)

(b) (5)

From: (b) (6), (b) (7)(C)

Sent: Sunday, April 9, 2017 4:30 PM

To (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C); FALK, SCOTT K (OCC)

(b) (6), (b) (7)(C) HIGHSMITH, ANNMARIE (OCC)

(b) (6), (b) (7)(C) KARISCH, RODOLFO

(b) (6), (b) (7)(C) FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

Cc (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Subject: C1 letter to Senator Wyden, Request Assistance
Importance: High

(b) (5)

(b) (5), (b) (6), (b) (7)(C)

Thank you for your help in advance.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C) (OPR)
Sent: Monday, April 10, 2017 9:36 AM
To: (b) (6), (b) (7)(C)
Subject: FW: C1 letter to Senator Wyden, Request Assistance



(b) (6), (b) (7)(C)
Deputy Director - Field Operations (Acting) | Headquarters - Washington, D.C.
U.S. Customs and Border Protection | Office of Professional Responsibility | Investigative Operations Division
Cellular (b) (6), (b) (7)(C) | Electronic Mail (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Monday, April 10, 2017 9:25 AM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: RE: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C) will fix!

(b) (6), (b) (7)(C)
Deputy Associate Chief Counsel (Enforcement and Operations)
Office of Chief Counsel
U.S. Customs and Border Protection
Desk (b) (6), (b) (7)(C)
Mobile (b) (6), (b) (7)(C)
Unclassified Email: (b) (6), (b) (7)(C)
JWICS: (b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C) (OPR)
Sent: Monday, April 10, 2017 9:15 AM
To: (b) (6), (b) (7)(C)
Cc: (b) (6), (b) (7)(C)
Subject: RE: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C)

(b) (5)

(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)

Deputy Director - Field Operations (Acting) | Headquarters - Washington, D.C.
U.S. Customs and Border Protection | Office of Professional Responsibility | Investigative Operations Division
Cellular (b) (6), (b) (7)(C) | Electronic Mail (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)

Sent: Monday, April 10, 2017 8:47 AM

To: (b) (6), (b) (7)(C)

Cc:

Subject: RE: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C)

Thanks for the call—please take a look at this draft and let me know if it looks accurate/appropriate. Thanks!

(b) (6),
(b) (7)

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel (Enforcement and Operations)
Office of Chief Counsel

U.S. Customs and Border Protection

Desk: (b) (6), (b) (7)(C)

Mobile: (b) (6), (b) (7)(C)

Unclassified Email: (b) (6), (b) (7)(C)

JWICS (b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C) (OPR)

Sent: Monday, April 10, 2017 12:41 AM

To: (b) (6), (b) (7)(C)

Subject: FW: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C)

Here's my rough draft: I know it needs to be trimmed down quite a bit, but I wanted to ensure you were aware of as many details as possible.

I will continue first thing in the AM (*which is already today*); I'll be taking the first train in.

(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)

Deputy Director - Field Operations (Acting) | Headquarters - Washington, D.C.

U.S. Customs and Border Protection | Office of Professional Responsibility | Investigative Operations Division

Cellular (b) (6), (b) (7)(C) Electronic Mail (b) (6), (b) (7)(C)

From: FUNN, ERICK K (OPR)

Sent: Sunday, April 09, 2017 9:09 PM

(b) (6), (b) (7)(C)

Subject: RE: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C)

Here is a starting point for you both. It looks like the deadline is the 9am intel briefing.

Erick

<BEGIN>

(b) (5)

(b) (5)

From: (b) (6), (b) (7)(C)

Sent: Sunday, April 9, 2017 4:30 PM

To: COUREY, MARC BENNETT (OCC) (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C) >; FALK, SCOTT K (OCC)

(b) (6), (b) (7)(C) ; HIGHSMITH, ANNMARIE (OCC)

(b) (7)(C) >; KARISCH, RODOLFO

(b) (6), (b) (7)(C) FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

Subject: C1 letter to Senator Wyden, Request Assistance

Importance: High

(b) (5)

(b) (5), (b) (6), (b) (7)(C)

Thank you for your help in advance.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C) (OPR)
Sent: Monday, April 10, 2017 9:33 AM
To: (b) (6), (b) (7)(C)
Subject: FW: C1 letter to Senator Wyden, Request Assistance

FYI



(b) (6), (b) (7)(C)
Deputy Director - Field Operations (Acting) | Headquarters - Washington, D.C.
U.S. Customs and Border Protection | Office of Professional Responsibility | Investigative Operations Division
(b) (6), (b) (7)(C)

From: FUNN, ERICK K (OPR)
Sent: Monday, April 10, 2017 12:09 AM

(b) (6), (b) (7)(C)

Subject: RE: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C)

Here is a starting point for you both. It looks like the deadline is the 9am intel briefing.

Erick

<BEGIN>

(b) (5)

(b) (5)

From: (b) (6), (b) (7)(C)

Sent: Sunday, April 9, 2017 4:30 PM

To: COUREY, MARC BENNETT (OCC) (b) (6), (b) (7)(C)

FALK, SCOTT K (OCC)

(b) (6), (b) (7)(C) HIGHSMITH, ANNMARIE (OCC)

(b) (6), (b) (7)(C) ; KARISCH, RODOLFO

NN, ERICK K (OPR) (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

FLANAGAN, PATRICK S

(b) (6), (b) (7)(C)

Subject: C1 letter to Senator Wyden, Request Assistance

Importance: High

(b) (5)

(b) (5), (b) (6), (b) (7)(C)

Thank you for your help in advance.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Monday, April 10, 2017 8:46 AM
To: FUNN, ERICK K (OPR); (b) (6), (b) (7)(C)
Subject: RE: Letter to the Honorable Ron Wyden
Attachments: Response to Ranking Member Ron Wyden - April 2017 (DRAFT OCC OPR 041017).docx

Thanks (b) (6), (b) (7)(C) worked with (b) (6), (b) (7)(C) this morning to come up with another approach—please see attached and let me know if you guys have any final concerns before I send to OCA. (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)
Deputy Associate Chief Counsel (Enforcement and Operations)
Office of Chief Counsel
U.S. Customs and Border Protection
Desk: (b) (6), (b) (7)(C)
Mobile: (b) (6), (b) (7)(C)
Unclassified Email (b) (6), (b) (7)(C)
JWICS: (b) (6), (b) (7)(C)

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From: FUNN, ERICK K (OPR)
Sent: Monday, April 10, 2017 8:58 AM

(b) (6), (b) (7)(C)

Subject: Letter to the Honorable Ron Wyden
Importance: High

(b) (6), (b) (7)(C)

A few edits from the version I sent last night.

Erick

(b) (5)

(b) (5)

(b) (5)

(b) (5)

(b) (6), (b) (7)(C)

From: FUNN, ERICK K (OPR)
Sent: Monday, April 10, 2017 8:39 AM
To: (b) (6), (b) (7)(C) KARISCH, RODOLFO; (b) (6), (b) (7)(C)
Subject: RE: C1 letter to Senator Wyden, Request Assistance
Attachments: OPR response letter to Sen Ron Wyden.docx; Response to Ranking Member Ron Wyden - April 2017 (b) (6), (b) (7)(C) edits 041017).docx

AC / DAC

(b) (5)

Erick

From: (b) (6), (b) (7)(C) (OPR)
Sent: Monday, April 10, 2017 8:59 AM
To: KARISCH, RODOLFO (b) (6), (b) (7)(C)
(b) (6), (b) (7)(C) FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)
Subject: FW: C1 letter to Senator Wyden, Request Assistance

Just received (b) (6), (b) (7)(C) version for review and approval.

(b) (6), (b) (7)(C) confirmed (b) (6), (b) (7)(C) (OCA) will finalize the letter.



(b) (6), (b) (7)(C)

Deputy Director - Field Operations (Acting) | Headquarters - Washington, D.C.
U.S. Customs and Border Protection | Office of Professional Responsibility | Investigative Operations Division
Cellular (b) (6), (b) (7)(C) Electronic Mail (b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Monday, April 10, 2017 8:47 AM

(b) (6), (b) (7)(C)

Subject: RE: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C) Thanks for the call—please take a look at this draft and let me know if it looks accurate/appropriate. Thanks (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel (Enforcement and Operations)

Office of Chief Counsel

U.S. Customs and Border Protection

Desk: (b) (6), (b) (7)(C)

Mobile: (202) 731-8416

Unclassified Email: (b) (6), (b) (7)(C)

JWICS (b) (6), (b) (7)(C)

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(b) (5)

(b) (5)

(b) (5)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Monday, April 10, 2017 6:51 AM
To: (b) (6), (b) (7)(C) (OPR)
Subject: RE: C1 letter to Senator Wyden, Request Assistance

Thanks—I will take a look now.

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel (Enforcement and Operations)
Office of Chief Counsel
U.S. Customs and Border Protection

(b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C) (OPR)
Sent: Monday, April 10, 2017 12:41 AM
To: (b) (6), (b) (7)(C)
Subject: FW: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C)

Here's my rough draft: I know it needs to be trimmed down quite a bit, but I wanted to ensure you were aware of as many details as possible.

I will continue first thing in the AM (*which is already today*); I'll be taking the first train in.

(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)
Deputy Director - Field Operations (Acting) | Headquarters - Washington, D.C.
U.S. Customs and Border Protection | Office of Professional Responsibility | Investigative Operations Division
Cellular (b) (6), (b) (7)(C) Electronic Mail (b) (6), (b) (7)(C)

From: FUNN, ERICK K (OPR)

Sent: Sunday, April 09, 2017 9:09 PM

(b) (6), (b) (7)(C)

Subject: RE: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C)

Here is a starting point for you both. It looks like the deadline is the 9am intel briefing.

(b) (6), (b) (7)(C)

<BEGIN>

(b) (5)

(b) (5)

From: (b) (6), (b) (7)(C)

Sent: Sunday, April 9, 2017 4:30 PM

To: COUREY, MARC BENNETT (OCC) (b) (6), (b) (7)(C)

ALK, SCOTT K (OCC)

(b) (6), (b) (7)(C)

HIGHSMITH, ANNMARIE (OCC)

(b) (6), (b) (7)(C)

> KARISCH, RODOLFO

(b) (6), (b) (7)(C)

FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

FLANAGAN, PATRICK S

(b) (6), (b) (7)(C)

Subject: C1 letter to Senator Wyden, Request Assistance

Importance: High

(b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

Thank you for your help in advance.

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C))
Sent: Monday, April 10, 2017 6:51 AM
To: (b) (6), (b) (7)(C)
Subject: FW: C1 letter to Senator Wyden, Request Assistance
Attachments: Response to Ranking Member Ron Wyden - April 2017.docx

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel (Enforcement and Operations)

Office of Chief Counsel

U.S. Customs and Border Protection

Desk: (b) (6), (b) (7)(C)

Mobile: (b) (6), (b) (7)(C)

Unclassified Email: (b) (6), (b) (7)(C)

JWICS: (b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)

Sent: Monday, April 10, 2017 12:41 AM

To: (b) (6), (b) (7)(C)

Subject: FW: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C)

Here's my rough draft: I know it needs to be trimmed down quite a bit, but I wanted to ensure you were aware of as many details as possible.

I will continue first thing in the AM (*which is already today*); I'll be taking the first train in.

(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)

Deputy Director - Field Operations (Acting) | Headquarters - Washington, D.C.
U.S. Customs and Border Protection | Office of Professional Responsibility | Investigative Operations Division

From: FUNN, ERICK K (OPR)

Sent: Sunday, April 09, 2017 9:09 PM

To: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

Subject: RE: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C)

Here is a starting point for you both. It looks like the deadline is the 9am intel briefing.

(b) (6), (b) (7)(C)

<BEGIN>

(b) (5)

(b) (5)

From: (b) (6), (b) (7)(C)

Sent: Sunday, April 9, 2017 4:30 PM

To: COUREY, MARC BENNETT (OCC) (b) (6), (b) (7)(C)

FALK, SCOTT K (OCC)

(b) (6), (b) (7)(C)

HIGHSMITH, ANNMARIE (OCC)

(b) (6), (b) (7)(C)

; KARISCH, RODOLFO

(b) (6), (b) (7)(C)

FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

FLANAGAN, PATRICK S

(b) (6), (b) (7)(C)

Subject: C1 letter to Senator Wyden, Request Assistance

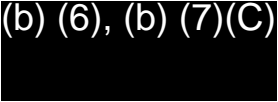
Importance: High

(b) (6), (b) (7)(C)

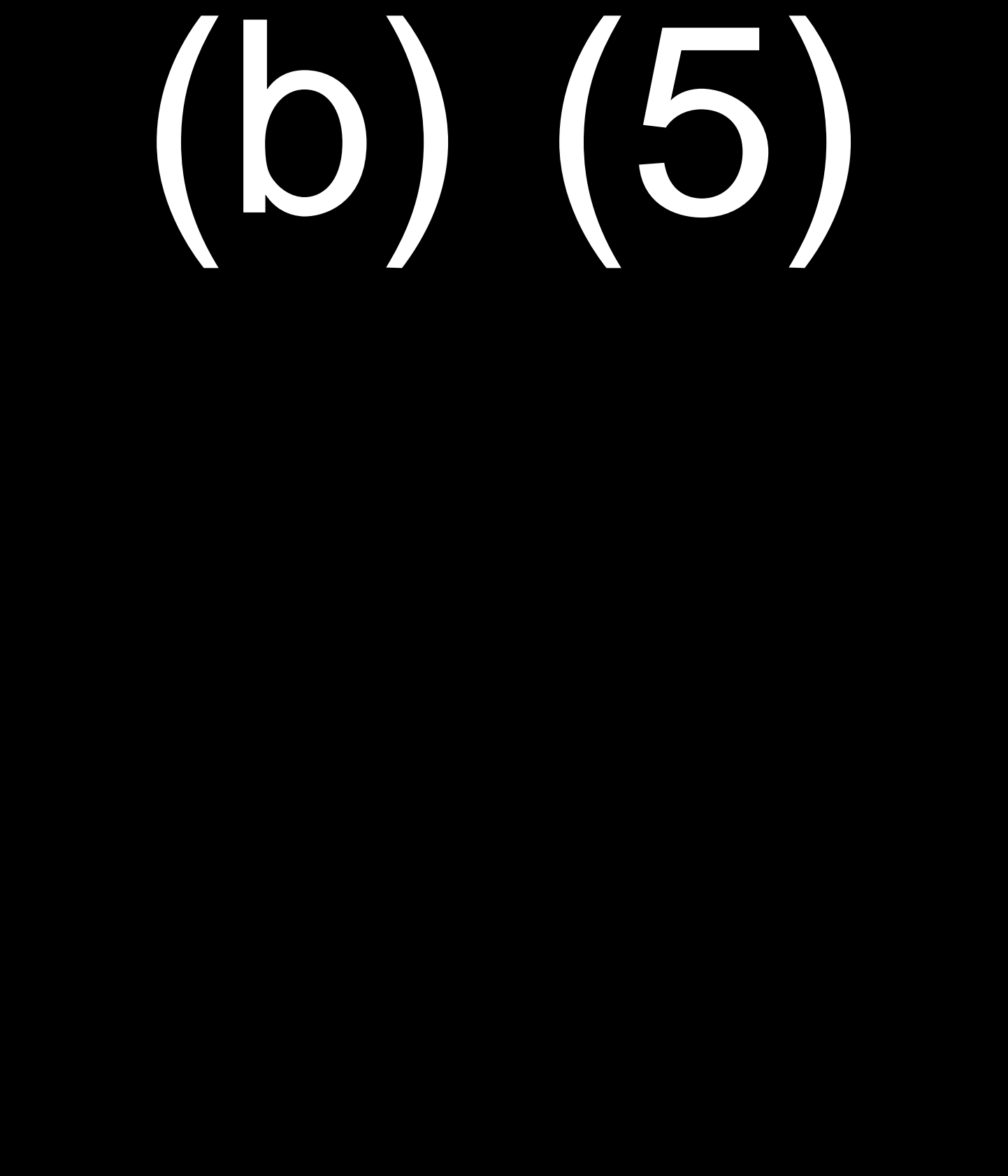
(b) (5), (b) (6), (b) (7)(C)

Thank you for your help in advance.

(b) (6), (b) (7)(C)

A solid black rectangular redaction box covering the text below the FOIA exemption codes.

(b) (5)



(b) (5)

(b) (5)

(b) (6), (b) (7)(C)

From: (b) (6), (b) (7)(C)
Sent: Monday, April 10, 2017 8:00 AM
To: (b) (6), (b) (7)(C) COUREY, MARC BENNETT (OCC)
Cc: (b) (6), (b) (7)(C)
Subject: RE: C1 letter to Senator Wyden, Request Assistance

Ok I will take a look now to see if I have any input...

From: (b) (6), (b) (7)(C)
Sent: Monday, April 10, 2017 1:45:51 PM
To: COUREY, MARC BENNETT (OCC); (b) (6), (b) (7)(C)
Subject: FW: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C), (b) (5)

(b) (6), (b) (7)(C)

Deputy Associate Chief Counsel (Enforcement and Operations)
Office of Chief Counsel
U.S. Customs and Border Protection
Desk: (b) (6), (b) (7)(C)
Mobile: (b) (6), (b) (7)(C)
Unclassified Email: (b) (6), (b) (7)(C)
JWICS (b) (6), (b) (7)(C)

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From: (b) (6), (b) (7)(C)
Sent: Monday, April 10, 2017 12:41 AM
To: (b) (6), (b) (7)(C)
Subject: FW: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C)

Here's my rough draft: I know it needs to be trimmed down quite a bit, but I wanted to ensure you were aware of as many details as possible.

I will continue first thing in the AM (*which is already today*); I'll be taking the first train in.

(b) (6), (b) (7)(C)



(b) (6), (b) (7)(C)

Deputy Director - Field Operations (Acting) | Headquarters - Washington, D.C.

U.S. Customs and Border Protection | Office of Professional Responsibility | Investigative Operations Division

Cellular (b) (6), (b) (7)(C) | Electronic Mail (b) (6), (b) (7)(C)

From: FUNN, ERICK K (OPR)

Sent: Sunday, April 09, 2017 9:09 PM

To: (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

Cc: (b) (6), (b) (7)(C)

Subject: RE: C1 letter to Senator Wyden, Request Assistance

(b) (6), (b) (7)(C)

Here is a starting point for you both. It looks like the deadline is the 9am intel briefing.

Erick

<BEGIN>

(b) (5)

(b) (5)

From: (b) (6), (b) (7)(C)

Sent: Sunday, April 9, 2017 4:30 PM

To: COUREY, MARC BENNETT (b) (6), (b) (7)(C)

FALK, SCOTT K (OCC)

(b) (6), (b) (7)(C)

; HIGHSMITH, ANNMARIE (OCC)

(b) (6), (b) (7)(C)

KARISCH, RODOLFO

(b) (6), (b) (7)(C)

FUNN, ERICK K (OPR) (b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

FLANAGAN, PATRICK S

(b) (6), (b) (7)(C)

Subject: C1 letter to Senator Wyden, Request Assistance

Importance: High

(b) (6), (b) (7)(C)

(b) (6), (b) (7)(C)

(b) (5), (b) (6), (b) (7)(C)

Thank you for your help in advance.

(b) (6), (b) (7)(C)